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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Fourth periodic reports of States parties due in 1994

Addendum

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND [1]

[14 October 1994]

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[1] For the initial report submitted by the Government of the United Kingdom of Great Britain and Northern Ireland, see CCPR/C/1/Add.17, Add.35, Add.37 and Add.39; for its consideration by the Committee, see CCPR/C/SR.67, SR.69 and SR.70; SR.147-SR.149; and SR.161, SR.162 and SR.164, and Official Records of the General Assembly, Thirty-third session, Supplement No. 40 (A/33/40), paras. 184-226, as well as Thirty-fourth session, Supplement No. 40 (A/34/40), paras. 228-247 and paras. 300-371, respectively. For the second periodic report of the United Kingdom of Great Britain and Northern Ireland, see CCPR/C/32/Add.5, Add.14 and Add.15; for its consideration by the Committee, see CCPR/C/SR.593-598 and SR.855-SR.857 and Official Records of the General Assembly, Fortieth session, Supplement No. 40 (A/40/40), paras. 518-580, and Forty-fourth session, Supplement No. 40 (A/44/40), paras. 140-189, respectively. For the third periodic report submitted by the Government of the United Kingdom of Great Britain and Northern Ireland, see CCPR/C/58/Add.6, Add.11 and Add.12; for its consideration by the Committee, see CCPR/C/SR.1045-SR.1050 and Official Records of the General Assembly, Forty-sixth session, Supplement No. 40 (A/46/40), paras. 351-414.

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I. GENERAL

1. The general framework within which the rights recognized in the International Covenant on Civil and Political Rights are protected in the United Kingdom was explained in the Introduction to the United Kingdom's initial report of August 1977 and in Part I of the United Kingdom's third periodic report of October 1989.

2. In the past five years, the question of the best means of providing for the human rights recognized in the Covenant and those other international instruments to which the United Kingdom is party has been a subject of debate. This reflects, in part, the way in which interest in human rights issues has been stimulated by the United Kingdom's extensive participation in work in this area.

3. The United Kingdom has given close attention to meeting the reporting requirements under those international instruments and to assisting and responding to the work of any visiting committee. The United Kingdom has also played a leading role in recent work to reform the institutions and procedures established under the European Convention on Human Rights. The revised arrangements are contained in the Eleventh Protocol to the Convention, which also makes mandatory and permanent the right of individual petition to the European Court of Human Rights. The United Kingdom signed the Eleventh Protocol in May 1994 and hopes to ratify it by the end of the year.

4. In the debates on human rights issues that have occurred in Parliament and elsewhere in recent years, the Government has maintained the long-established principle that the rights and freedoms recognized in international instruments and in the constitutions of those countries that have enacted a comprehensive Bill of Rights are inherent in the United Kingdom's legal system and are protected by it and by Parliament unless they are removed or restricted by statute. The Government does not consider that it is properly the role of the legislature to confer rights and freedoms which are naturally possessed by all members of society. It also believes that Parliament should retain the supreme responsibility for enacting or changing the law, including that affecting individual rights and freedoms, while it is properly the role of the judiciary to interpret specific legislation.

5. The incorporation of an international human rights instrument into domestic law is not necessary to ensure that the United Kingdom's obligations under such instruments are reflected in the deliberations of government and of the courts. The United Kingdom's human rights obligations are routinely considered by Ministers and their officials in the formulation and application of Government policy, while judgements of the House of Lords have made clear that such obligations are part of the legal context in which the judges consider themselves to operate:

> "There is a *prima facie* presumption that Parliament does not intend to act in breach of international law, including therein specific treaty obligations; and if one of the meanings which can reasonably be ascribed to the legislation is consonant with the treaty obligations and another or others are not, the meaning which is consonant is to be preferred." (*Salomon v. the Commissioners of Customs and Excise* [1967] 2 QB 116.)

The application of this principle (extended to the common law) in relation to the European Convention on Human Rights may be seen in Derbyshire County Council v. Times Newspapers Limited [1992] 3 WLR 28. (The decision was upheld on different grounds in the House of Lords, where their Lordships found no ambiguity in the common law, [1993] AC 534.)

6. Nor is the ratification of the Optional Protocol to the Covenant allowing the right of individual petition to the Human Rights Committee necessary to ensure the protection of individual rights in this country. Whether in civil or criminal proceedings or in the developing field of judicial review of executive decision-making, the domestic courts continue to play an effective role as protectors of individual rights, while since 1966 individuals in the United Kingdom have had access to an additional means of redress through the procedures and institutions established under the European Convention on Human Rights. That machinery provides protection which is now familiar and well used and the Government does not believe that ratification of the Optional Protocol to the Covenant would significantly enhance the protection of individuals under the United Kingdom's jurisdiction.

7. The United Kingdom is a unitary State and comprises England and Wales, Scotland and Northern Ireland; references in this report to "Great Britain" refer to England and Wales and Scotland taken together. Scotland and, to some extent, Northern Ireland have different legal systems from that which applies in England and Wales, but similar principles apply throughout the United Kingdom.

8. As with previous reports, the Government intends to make the text of this report and of the summary record of the oral examination by the Human Rights Committee widely available throughout the United Kingdom. Copies of the report and, in due course, of the text of the oral examination will be placed in the Library of both Houses of Parliament and made freely available to those outside Parliament, including in non-governmental organizations, who wish to receive a copy. The text of the oral examination will be circulated widely and studied closely within government as part of the ongoing process by which the Government seeks to ensure that the rights and freedoms of individuals within the United Kingdom and subject to its jurisdiction are fully in accordance with the United Kingdom's international obligations.

9. A supplementary report describing the position in the United Kingdom's Crown dependencies and dependent territories, including Hong Kong, is being submitted separately.

II. INFORMATION IN RELATION TO EACH OF THE ARTICLES IN PARTS I, II AND III OF THE COVENANT

Introduction

10. The following information is supplementary to that provided in the United Kingdom's initial, second and third periodic reports of August 1977 (CCPR/C/1/Add.17), August 1984 (CCPR/C/32/Add.5) and October 1989 (CCPR/C/58/Add.6) and supplementary report to the third periodic report of March 1991 (CCPR/C/58/Add.12). It is also supplementary to that given by the

United Kingdom delegation at the meetings of the Human Rights Committee which discussed those reports, most recently in April 1991 (CCPR/C/SR.1045-1050). Account has been taken in the preparation of the report of the general guidelines for periodic reports and of the general comments on particular articles adopted by the Human Rights Committee.

11. As in previous reports, the United Kingdom has provided information as fully as possible, but the inclusion of particular points does not necessarily mean that the United Kingdom considers that they fall within the scope of particular articles of the Covenant.

Article 1

12. Paragraphs 16 to 20 of the third periodic report set out the United Kingdom's policy of promoting self-government and independence in the dependent territories of the United Kingdom, its support in United Nations bodies for the right of self-determination and the exercise of that right within the United Kingdom itself.

13. As the United Kingdom delegation described during the oral examination on the third periodic report (CCPR/C/SR.1046, para. 56), on 26 March 1991, the Secretary of State for Northern Ireland announced that there existed a basis for formal political talks between the main constitutional parties in Northern Ireland and the Governments of the United Kingdom and the Republic of Ireland. The discussions would be in three strands, each focusing on one of the three main relationships involved: those within Northern Ireland, those within the island of Ireland and those between the peoples of the islands of Ireland and Great Britain.

14. A first round of talks took place between 30 April and 3 July 1991 and these ended when it was clear that no further substantive progress would be possible before a planned meeting on 16 July of the Anglo-Irish Conference, which was established under the auspices of the Anglo-Irish Agreement of 1985. Building on those talks a new round began on 9 March 1992, resuming on 29 April after a general election in the United Kingdom and continuing until 10 November 1992. Discussions took place within all three strands; meetings within the second strand - under the independent chairmanship of Sir Ninian Stephen, a former Governor General of Australia - began on 6 July and, on 28 July, the two Governments opened discussions within the third strand in Dublin.

15. In a statement to the House of Commons on 11 November 1992, the Secretary of State for Northern Ireland reported that all the participants had agreed and issued a statement in which they recognized that "while at this time there is no basis to agree a settlement, they have identified and discussed most, if not all, of the elements which would comprise an eventual settlement; they have developed a clear understanding of each other's positions; and established constructive dialogue on ways in which an accommodation might be reached on some of the key issues which divide them". Furthermore, the main constitutional parties in Northern Ireland agreed that they would enter into informal consultations with a view to seeking a way forward.

16. Since then the United Kingdom Government has continued to hold bilateral meetings with those of the participants who wished to take part and both Governments have worked in the regular meetings of the Anglo-Irish Conference, and in a liaison group of officials, to establish a framework of common understanding on the way forward.

17. On 15 December 1993, the Prime Minister of the United Kingdom and the Irish Taoiseach issued a Joint Declaration in Downing Street, a copy of which is attached at annex A*. The two Governments agreed that this Declaration of fundamental principles would provide the starting point of a peace process designed to culminate in a political settlement. In the Declaration both Governments acknowledged the necessity for securing consent to any change in the present constitutional status of Northern Ireland, and that the achievement of peace must involve a permanent end to the use of, or support for, paramilitary violence. The United Kingdom Government agreed that "it is for the people of the island of Ireland alone, by agreement between the two parts respectively, to exercise their right of self-determination on the basis of consent, freely and concurrently given, North and South, to bring about a united Ireland, if that is their wish". Furthermore, the United Kingdom Government reaffirmed "as a binding obligation that they will, for their part, introduce the necessary legislation to give effect to this, or equally to any measure or agreement on future relationships in Ireland which the people living in Ireland may themselves freely so determine without external impediment".

Article 2

18. The general framework within which the United Kingdom gives effect to the rights recognized in the Covenant is discussed in Part I of the report, while information on the particular legislative or other measures adopted is set out in the remainder of Part II.

19. The Government remains committed to the development of a society in which all individuals have equal rights, responsibilities and opportunities. The Government seeks to ensure that its policies and programmes benefit all sections of society and supports legislation, institutions and policies directed at tackling discrimination and promoting equality of opportunity. In order to demonstrate the Government's commitment to addressing problems of discrimination reference has been made under articles 2 and 3 to legislative or other measures, including in the field of employment, which, in the United Kingdom's view, are not measures which are required to give effect to rights recognized in the Covenant.

Ethnic minorities

20. The 1991 Census of Population in Great Britain was the first to include a question on ethnic origin and has provided much detailed information on the size, geographical distribution and characteristics of the minority ethnic

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* Annexes available for consultation with the Secretariat. A list of annexes appears in appendix.

population. This information will help central and local government, health authorities, private employers and voluntary bodies to identify what inequalities exist and to plan action to overcome them.

21. The Census question used nine categories to classify ethnic groups: White, Black Caribbean, Black African, Black Other, Indian, Pakistani, Bangladeshi, Chinese, Other. The Black Other and Other categories allowed people to describe their ethnic group in their own words.

22. Based on answers to the 1991 Census, it was calculated that 5.5 per cent (3 million) of the residents of Great Britain belonged to ethnic groups other than white. The largest minority ethnic group was Indian, which formed 1.5 per cent of the total population, or 28 per cent of the minority ethnic population. A breakdown of the population of Great Britain by ethnic groups is given below:

ETHNIC GROUP	TOTAL PERSONS (000s)	% OF TOTAL	% OF ALL ETHNIC MINORITIES
Total persons	54 889		
White	51 874	94.51	
All Ethnic Minorities	3 015	5.5	100.0
Black Caribbean	500	0.9	16.6
Black African	212	0.4	7.0
Black Other	178	0.3	5.9
Indian	840	1.5	27.9
Pakistani	477	0.9	15.8
Bangladeshi	163	0.3	5.4
Chinese	157	0.3	5.2
Other Groups/Asian	198	0.4	6.6
Other Groups/Other	290	0.5	9.6

23. The Census also provided detailed geographical information on the minority ethnic population and showed that the proportion of the population in minority ethnic groups varied considerably throughout the country, but was concentrated in the metropolitan and industrial areas. For example, over a quarter of the population in nine London Boroughs and two local authority districts outside London - Slough and Leicester - belonged to minority ethnic groups. The chart at annex B shows the distribution in April 1991 of the minority ethnic population as a proportion of the total population for local authorities in Great Britain. Other areas covered by the Census included sex, age, educational qualifications, economic position, country of birth, housing and household composition.

International Convention on the Elimination of All Forms of Racial Discrimination

24. The International Convention on the Elimination of all Forms of Racial Discrimination entered into force in respect of the United Kingdom on 6 April 1969. The United Kingdom's twelfth periodic report under the Convention was submitted in October 1992 and the United Kingdom was examined on that report before the Committee established under article 8 of the Convention in August 1993.

Ethnic minorities and the criminal justice system

25. Further to paragraph 24 of the third periodic report, the need to avoid any possibility of racial discrimination in the criminal justice system remains an issue of particular importance. Section 95 of the Criminal Justice Act 1991 requires the Government each year to publish such information as it considers expedient to facilitate the performance by those engaged in the administration of criminal justice of their duty to avoid discriminating against anyone on the basis of race, sex or any other improper ground. Information was first published in 1992 and contained details of the main minority ethnic groups in the United Kingdom and of their experiences within the criminal justice system; it also looked at their underrepresentation in positions of responsibility in criminal justice agencies and at their position as victims of crime. Further information on these and other topics was published in July 1994.

26. The effectiveness of this provision in the 1991 Act depends on the availability of information and this is one of the reasons why the Government is committed to extending ethnic monitoring throughout the criminal justice system. The aim ultimately is to put in place a system of monitoring which will make it possible to track a defendant's progress through the criminal justice system from point of entry until the point at which that person leaves the process. Recent and prospective developments towards this aim include:

(a) The introduction in October 1992 of a national system of ethnic monitoring in the probation service in England and Wales;

(b) The introduction in October 1992 of a new system of ethnic classification in the Prison Service in England and Wales (see para. 32 below);

(c) The introduction in April 1993 of ethnic monitoring of stops and searches by the police. It is anticipated that this monitoring will be extended by 1995 to cover arrests and cautions and work to examine the practicability of extending ethnic monitoring to disposals is being undertaken; and

(d) The current preparation of detailed guidance for police forces on the collection and effective use of ethnic monitoring data.

27. A number of steps have been or are being taken to safeguard against racial discrimination within the criminal justice system. These include:

(a) A government-funded project by the voluntary sector National Association for the Care and Resettlement of Offenders which is aimed at helping criminal justice agencies to gain the confidence of local minority ethnic communities. The project will provide information and advice to criminal justice agencies, help them improve service delivery and assist in the implementation of non-discriminatory policies;

(b) The publication in February 1993 by the Association of Chief Police Officers and the Commission for Racial Equality of "Policing and Racial Equality", a practical guide for police forces on such matters as complaints, community consultation and monitoring;

(c) The establishment in 1991 by the Judicial Studies Board, which is responsible for the training of all who sit in any form of judicial capacity, of an Ethnic Minorities Advisory Council under the chairmanship of Mr. Justice Brooke; one of its central tasks is to provide training on ethnic minority issues. Members of the Council speak regularly at judicial training seminars and address a large number of conferences held by other criminal justice agencies. The Council also provides information and training materials to judges and magistrates;

(d) A review of training on race issues throughout the Prison Service in England and Wales. A local training pack has been introduced in all prisons; a national conference for race relations officers in prisons was held in May 1993; and an offence of racially discriminatory behaviour has been included in the prison staff disciplinary code; and

(e) The emphasis by the Crown Prosecution Service of its concern about racial incidents by the inclusion of racial motivation in the Code for Crown Prosecutors as one of the factors to be taken into account when assessing whether prosecution is in the public interest.

28. The Government remains fully committed to developing policies that address the continuing problem of racial violence and harassment in the United Kingdom. (The number of incidents reported to the police in England and Wales in which racial motivation was suspected - whether or not these were criminal offences - was 7,734 in 1992, compared with 7,882 in 1991 and 4,383 in 1988). The full scope of the criminal law is available to deal with offences of racial violence and harassment and racial motivation is recognized by the courts as an aggravating factor to be taken into account when determining the seriousness of the offence. The Government continues to keep the effectiveness of the law in this area under review and the Criminal Justice and Public Order Bill, which is currently before Parliament, would create a new offence of intentional harassment, carrying with it the power of immediate arrest, which is aimed at providing higher penalties for the most serious cases of harassment, particularly those which are persistent and racially motivated.

29. The Government strongly supports police efforts to tackle racially motivated crime. All police forces are required to give a high priority to reported racial incidents and their arrangements for doing so are systematically monitored by the independent Inspectorate of Constabulary. Since April 1993 national police performance indicators have required police forces to report publicly on their performance in investigating racial incidents. One of the most effective ways of improving the police response to racial incidents and their relationship with the minority ethnic population is by the provision of race relations training for police officers; the Government has therefore sponsored the Specialist Support Unit in Police-Community and Race Relations since 1989 and will continue to fund similar specialist support.

30. In February 1994, the Government reconvened the interdepartmental Racial Attacks Group in order to review the implementation of the report it published in 1991 and to address current issues of concern. As a result of the Group's earlier recommendation that local, multi-agency groups should be established to combat racially motivated crime, many police forces have implemented initiatives with the support of the local community and other local agencies. The Government believes that much can be done to ensure that the existing law is applied effectively and consistently with regard to crimes that are racially motivated; one of the tasks of the Racial Attacks Group will be to ensure that there is a uniformity of commitment and practice in all criminal justice agencies in all parts of the United Kingdom.

31. Further to paragraph 4 of the supplementary report to the third periodic report, in June 1993, among the male prison population of England and Wales, 84 per cent were white; 11 per cent were black (the equivalent of the former Afro-Caribbean group); and 3 per cent were of Asian origin (Bangladeshi, Indian or Pakistani) (the remainder were of other ethnic groups). Among the female population, 74 per cent were white; 20 per cent were black; and 1 per cent was of Asian origin (the remainder were of other ethnic groups).

32. A new form of ethnic classification of prisoners, introduced in 1992, means that it is now possible to compare prisoners on the basis of nationality. When comparisons of the prison population in England and Wales in June 1993 are confined to those of United Kingdom nationality (who represented 92 per cent of male prisoners and 82 per cent of female prisoners), 88 per cent of male prisoners were white; 9 per cent were black; and 2 per cent were of Asian origin. The figures for female prisoners change more dramatically: 86 per cent were white; 10 per cent were black; and 1 per cent was of Asian origin. The total percentage of black females in the prison population is inflated by the number of foreign black female prisoners, many of whom are of African origin and imprisoned for drug importation.

The Commission for Racial Equality

33. Paragraphs 39 to 42 of the third periodic report described the work of the Commission for Racial Equality in Great Britain, established under the Race Relations Act 1976. In 1993, 1,630 individual applications for assistance following alleged discrimination were registered with the Commission, of which 1,160 were employment-related, 425 arose in areas other

than employment and 45 were outside the scope of the Race Relations Act. In the same year, the Commission's Legal Committee, which considers each application registered, decided that, of 1,709 cases considered, 128 complaints should not receive any assistance, 1,175 should receive further assistance and 250 should be helped with legal representation; 156 cases were withdrawn. In 1993, of the cases supported by the Commission (which included some cases from before 1993) 100 - including 72 individual cases against Hagas Public Limited Company - were successful after hearing, 110 were settled on agreed terms and 26 were dismissed after hearing.

Race relations in Northern Ireland

34. There are believed to be 10,000-15,000 members of minority ethnic groups in Northern Ireland (less than 1 per cent of the population).

35. The Race Relations Act 1976 does not apply in Northern Ireland, but the Government accepts the principle that protection should be given to those in Northern Ireland who suffer from discrimination on grounds of race. In December 1992, the Government published a consultation document, "Race Relations in Northern Ireland", which examined the question of legislation and the needs of ethnic minorities and of Irish travelling people. The Government is currently concluding its examination of the issues raised during the consultation period.

36. There is already some government assistance for members of the minority ethnic communities normally resident in Northern Ireland. They are entitled to the full range of services provided by government agencies, which have, where appropriate, developed policies and programmes to assist the minority ethnic communities to make full use of those services. Much of this assistance is provided in conjunction with voluntary organizations involved in the welfare of minority ethnic groups, which are helped by grant aid from the Government.

Other measures against racial discrimination

37. The Courts and Legal Services Act 1990 amended the Race Relations Act 1976 to make it unlawful for a barrister or barrister's clerk (or an advocate in Scotland) to discriminate on racial grounds:

(a) In the selection of a person for a pupillage (the 12 months' practical training undertaken by trainee barristers) or of a qualified barrister for a place, or tenancy, in a set of barristers' chambers, or in the terms offered; and

(b) After engagement, in affording opportunities for training or gaining experience; in affording benefits, facilities or services; or in terminating a pupillage.

It is also unlawful for a person to discriminate on racial grounds in the giving, withholding or acceptance of instructions to a barrister (or advocate).

38. The Race Relations (Remedies) Act 1994, which came into force in July 1994, amended the Race Relations Act 1976 to remove the ceiling of £11,000 in compensation that could be awarded by industrial tribunals in cases of racial discrimination and to allow interest to be included in such awards. The changes parallel amendments made to the Sex Discrimination Act 1975 following the ruling of the European Court of Justice in the case of Marshall v. Southampton and South West Hampshire Health Authority (see para. 63 below).

39. The Ten Point Plan for Employers was launched in March 1992 to provide employers with practical advice on how they can offer equality of opportunity within their workplace to people from ethnic minorities, women and people with disabilities. Copies of the Plan were sent to 36,500 employers employing 50 or more people; over 80,000 additional copies have, since publication, been requested by employers and other organizations. The Plan is intended to focus the attention of employers on the need to make equal opportunities a natural and integral part of their management practices.

40. In addition, a booklet was launched in May 1994 advising employers on the setting up and running of equal opportunity networks. The booklet, which has been widely disseminated, is based on research which found that support networks are effective in helping employers to make progress on equal opportunities for people from ethnic minorities, women, people with disabilities and older workers.

41. Information on people from ethnic minorities in public life is set out at paragraphs 446 to 458, below.

Rights of aliens

42. Paragraph 43 of the third periodic report described the rights of those who are not British citizens but who have indefinite leave to remain in the United Kingdom. It should be noted that, in the case of anyone who is not a British citizen, or a citizen of the European Union (EU) or of Austria, Finland, Iceland, Norway or Sweden (which together with the EU form the European Economic Area), or settled in the United Kingdom, the Government of the United Kingdom reserves the right to continue to apply such immigration legislation governing the period of their stay and their ability to take employment as the Government thinks fit.

Political and religious discrimination in employment in Northern Ireland

43. There are clear and long-standing differences between the employment experience of Protestants and Roman Catholics in Northern Ireland. The reasons for this are complex and arise from a range of social, demographic and historical influences which are not a feature of the rest of the United Kingdom. The Government therefore continues to place a high priority on removing obstacles to equality of opportunity and any manifestations of political or religious discrimination in employment in Northern Ireland. As described in paragraph 47 of the third periodic report, such discrimination by central and local government statutory bodies has been unlawful in Northern Ireland since the enactment of the Northern Ireland Constitution Act 1973.

44. Paragraph 9 of the supplementary report to the third periodic report explained that the provision against political and religious discrimination by other employers contained in the Fair Employment (Northern Ireland) Act 1976 was considerably strengthened by the Fair Employment (Northern Ireland) Act 1989, which came into force on 1 January 1990.

45. The main responsibility for enforcing the Act rests with the Fair Employment Commission (the FEC). Its staffing has risen from around 30 to 80 since 1990. It has a budget in 1994-1995 of £2.8 million.

46. The FEC's activities concentrated initially on compiling a register of all firms with more than 25 employees and, since 1992, this has been extended to include all firms with more than 10 employees. The FEC register now consists of approximately 4,000 employers and covers almost 75 per cent of all employees in Northern Ireland.

47. All registered firms are under a duty to submit annual monitoring returns to the FEC showing the religious breakdown of their workforce. There has been a very high level of cooperation by employers in this exercise and the FEC now publishes each year an analysis of the monitoring returns. These data are providing an extremely useful benchmark against which to measure progress in promoting equality of opportunity and fair participation by both communities in employment. The returns show, for example, that the proportion of Roman Catholics in monitored employment has increased steadily from 34.9 per cent in 1990 to 36.6 per cent in 1993. (The proportion of Roman Catholics in the economically active population is estimated to be 39 per cent.)

48. Under section 31 of the 1989 Act, registered employers are also under a duty to review their employment composition and practice s at least once every three years and to take reasonable and appropriate affirmative action if either Protestants or Roman Catholics are not enjoying fair participation in their workforce. About 1,500 registered employers were required to undertake such a review in 1993 and, where necessary, the FEC is now assisting these firms in the development of affirmative action programmes.

49. The Royal Ulster Constabulary (the RUC) is also subject to the 1989 Act and cooperates fully with the FEC in submitting an annual monitoring return and in completing a three-yearly review of employment composition and practices. The RUC is committed to becoming as representative as possible of the Northern Ireland community and to a policy of equality of opportunity in respect of all applicants to, and serving members of, the force.

50. The FEC can investigate any employer at any time. It has initiated a programme of investigations and the reports of all of these will be published when they are completed. An important part of these reports will be the steps which the firms are taking to ensure fair participation in employment by both communities. The FEC has extensive powers to require employers to take affirmative action but prefers, where possible, to obtain voluntary undertakings from firms and to continue to work closely with them to bring about change in employment patterns.

51. If the FEC is unable to reach a voluntary agreement with an employer (for example, to take affirmative action), it can issue a formal direction to the employer. If the employer fails to implement the direction, the FEC can seek enforcement through the Fair Employment Tribunal, described in paragraph 53, below, which has the power to impose a penalty of up to £30,000 or to certify any breach of its orders to the High Court.

52. The way in which employers are required to monitor the religious affiliation of their employees and job applicants is laid down in detailed regulations. Individuals are not compelled to give the information requested by employers but the vast majority do so. There is no set proportion of Protestants and Roman Catholics which all firms throughout Northern Ireland should have. The targets (as distinct from "quotas", which are unlawful) set by the FEC depend upon local conditions and individual circumstances and, consequently, they vary from job to job, from firm to firm and from area to area.

53. Under the 1976 Act, individuals who believed they had been victims of unlawful discrimination could take their case to the Fair Employment Agency. This procedure, however, had a number of defects, for example, Agency hearings were in private, there was no opportunity to cross-examine witnesses and there was a conflict between the Agency's tasks of campaigning against discrimination and of acting as an impartial adjudicator. Consequently, the 1989 Act established the Fair Employment Tribunal, which is an independent, quasi-judicial body operating on very similar lines to industrial tribunals throughout the United Kingdom. Because of the complex and sensitive nature of religious discrimination and the need to build up a panel of Tribunal members with expertise in this area, it was decided that the Tribunal should remain distinct from the industrial tribunal system.

54. Where the Tribunal finds that unlawful discrimination has occurred, it can award compensation of up to £35,000 (this figure having been raised from £30,000 on 15 March 1994 to take account of inflation since the Act came into force). However, as a result of the removal of the upper limit on compensation in sex discrimination cases (following the ruling of the European Court of Justice in Marshall) the limit of £35,000 for religious discrimination is also to be removed. This is to be done by Order in Council as soon as possible.

55. At 31 March 1994, 1,119 complaints of alleged discrimination had been received by the Tribunal. Of these, 29 cases had been allowed (i.e. the Tribunal had found that discrimination had occurred), 92 had been dismissed (i.e. there had been no finding of discrimination), 28 had been settled between the parties and 451 had, for a variety of reasons, been withdrawn. Of the remaining 519 cases, as many as 70 per cent are likely to be disposed of without the need for a full Tribunal hearing.

56. The Government remains firmly committed to the elimination of all forms of unlawful discrimination in employment in Northern Ireland. During the parliamentary passage of the 1989 Act, the Government gave a commitment to carry out a major review of employment equality, including the effectiveness of the Act, after five years. This review is being led by the Central Community Relations Unit, which was established within the Northern Ireland

Civil Service in 1987 to advise the Secretary of State for Northern Ireland on all aspects of the relationship between the different parts of the Northern Ireland community. The review, the report of which will be published, is due to be completed towards the end of 1995.

Article 3

57. As noted in paragraph 19, above, in order to demonstrate the Government's commitment to addressing problems of discrimination reference has been made under this article to legislative or other measures, including in the field of employment, which, in the United Kingdom's view, are not measures which are required to give effect to rights recognized in the Covenant.

Convention on the Elimination of All Forms of Discrimination Against Women

58. The United Nations Convention on the Elimination of All Forms of Discrimination Against Women entered into force in respect of the United Kingdom on 7 May 1986. The United Kingdom's second periodic report under the Convention was submitted in May 1991 and the United Kingdom was examined on that report before the Committee established under article 17 of the Convention in January 1993.

Equal Opportunities Commissions

59. Paragraphs 52 and 53 of the third periodic report described the work of the Equal Opportunities Commissions of Great Britain and Northern Ireland, established under the Sex Discrimination Act 1975 and the Sex Discrimination (Northern Ireland) Order 1976. The Commissions continue to play an important role in combating sex discrimination and promoting equality of opportunity between the sexes.

60. As well as providing advice informally, the Equal Opportunities Commission of Great Britain has powers under section 75 of the Sex Discrimination Act 1975 to grant formal assistance, including full legal support, to individuals in cases of alleged discrimination under the 1975 Act or the Equal Pay Act 1970. In 1993, 302 requests for advice or legal assistance were received by the Commission, of which 199 were granted, and during 1993 the results of 39 cases in which advice or assistance had been granted were reported to the Commission, of which 14 had been settled on terms, 12 had been successful after a tribunal or court hearing and 13 had been dismissed after such a hearing.

61. The Equal Opportunities Commission for Northern Ireland has similar powers under article 75 of the Sex Discrimination (Northern Ireland) Order 1976 to grant formal assistance, including full legal support, to individuals in cases of alleged discrimination under the 1976 Order or the Equal Pay Act (Northern Ireland) 1970. In 1993-1994, 1,276 legal inquiries and complaints were received by the Commission and, in addition, 192 requests were made for assistance under article 75, of which 158 were granted. During the year 23 cases were concluded in the industrial tribunal; awards were made in 12 of those cases and 11 cases were dismissed after hearing. In addition, 98 cases were settled on terms favourable to the complainant.

62. As noted in paragraph 17 of the supplementary report to the third periodic report, the Commissions have a statutory duty to carry out a periodic review of the sex discrimination and equal pay legislation and to advise the Government of any changes they consider necessary. In July 1993, the Government responded to proposals from the Equal Opportunities Commission of Great Britain for the strengthening of the equal pay legislation - a number of the Commission's proposals were accepted and this has led, in particular, to changes in the rules of procedure for industrial tribunals which will simplify the consideration of cases involving equal pay for work of equal value; a public consultation exercise is taking place on options for further changes. The Government plans to respond soon to proposals on equal pay from the Equal Opportunities Commission of Northern Ireland. In addition, the Government will shortly meet the Commissions to discuss what more might be done to strengthen the United Kingdom's sex discrimination legislation.

Compensation for sex discrimination

63. Following the ruling of the European Court of Justice in the case of Marshall v. Southampton and South West Hampshire Health Authority, the Sex Discrimination and Equal Pay (Remedies) Regulations 1993, which came into force in November 1993, amended the Sex Discrimination Act 1975 to remove the ceiling of £11,000 in compensation that could be awarded by industrial tribunals in cases of sex discrimination and to allow interest to be included in such awards. Similar legislation, the Sex Discrimination and Equal Pay (Remedies) Regulations (Northern Ireland) 1993, came into force in Northern Ireland in December 1993.

Pregnant workers

64. Under the Trade Union Reform and Employment Rights Act 1993, all pregnant workers have the right not to be unreasonably refused paid time off work for antenatal care and the dismissal of a woman because she is pregnant or for reasons connected with her pregnancy is automatically unfair.

65. The 1993 Act also significantly extends and enhances women's maternity rights. Under the new provisions, which are to be brought into force in October 1994, all pregnant employees, irrespective of their length of service or hours of work, will have:

(a) The right to at least 14 weeks of statutory maternity leave, during which all their non-wage contractual benefits must be continued. (Those who meet the established qualifying criteria under United Kingdom law (of two years' continuous service) will continue to be entitled to 40 weeks of maternity leave; around two thirds of working women already have this entitlement available to them); and

(b) The right to be offered any suitable alternative work before being suspended owing to a maternity-related health and safety restriction and the right to receive full pay while on suspension if there is no such work available.

66. These statutory maternity rights represent a minimum entitlement on top of which employers and employees may agree more favourable contractual terms. A survey by the Policy Studies Institute, "Maternity Rights in Britain", published in March 1991, estimated that 14 per cent of working women received enhanced contractual maternity provision.

Sexual harassment

67. The case of Porcelli v. Strathclyde Regional Council established that sexual harassment can, in certain circumstances, amount to sex discrimination and give rise to a claim under the Sex Discrimination Act 1975. Because of the sensitivity which often surrounds cases of sexual harassment, the Trade Union Reform and Employment Rights Act 1993 provides industrial tribunals with the power to make an order restricting identification of the individuals concerned. In addition, some instances of sexual harassment may also amount to unlawful assault and give rise to civil or criminal liability.

68. In November 1991, the United Kingdom agreed to a European Council Declaration on the protection of the dignity of women and men at work. The Declaration registers the Council's endorsement of a Recommendation and Code of Practice produced by the European Commission, which call upon member States to take action to promote awareness of the negative and destructive impact that sexual harassment can have on the working environment. In March 1992, the Government published a guidance booklet for employers and a companion fact sheet for employees, which were distributed to every employer with over 10 employees, a total of about 100,000 companies.

Immigration control

69. Since the United Kingdom's third periodic report, the Immigration Rules made under the Immigration Act 1971 have been amended so as to provide for the entry into the United Kingdom of male as well as female au pairs.

70. Further changes to the Immigration Rules, which are expected to come into force on 1 October 1994, will have the following effects:

(a) To permit female students to be joined by their spouse and children on the same basis as male students;

(b) To require all children over the age of 18 to qualify for entry into the United Kingdom in their own right thereby removing a discriminatory element in the Immigration Rules which permits an unmarried but dependent daughter up to the age of 21 to join a parent or parents settled in the United Kingdom; and

(c) To require a widow wishing to join a person settled in the United Kingdom to be aged 65 or over. This eliminates a discriminatory element in the Immigration Rules which requires widowers to be aged 65 or over to join a person settled here but allows widows of any age to seek entry for this purpose.

71. These changes will remove virtually all the sexually discriminatory elements from the Immigration Rules. The only remaining sexually discriminatory provision will be that, under section 5 of the Immigration Act 1971, the wife but not the husband of a deportee may be deported. As a matter of policy, this provision is not used in practice and its amendment or repeal will be considered when a suitable legislative opportunity arises.

Criminal justice system

72. As noted in paragraph 25 above, section 95 of the Criminal Justice Act 1991 requires the Government each year to publish such information as it considers expedient to facilitate the performance by those engaged in the administration of criminal justice of their duty to avoid discriminating against anyone on the basis of race, sex or any other improper ground. Research and statistical findings on the treatment of women in the criminal justice system in England and Wales were published in September 1992 and May 1994; the latter concluded, among other things, that there was no research or statistical evidence to support the claim that women were systematically dealt with more severely than men; women were less likely to commit offences than men and women and men differed in the extent to which they committed different sorts of offences; and women were less likely to be remanded in custody than men.

Other developments

73. There have been a number of important developments in case-law:

(a) In 1991, in R v. R ([1992] 1 AC 599) the House of Lords confirmed an earlier ruling by the Court of Appeal that rape within marriage was unlawful;

(b) Following the case of Marshall v. Southampton and South West Hampshire Health Authority, employers must equalize retirement ages for women and men. It is now unlawful for a woman to be dismissed from her employment because she has reached the State Retirement Age for women of 60 if a man, in the same employment, is entitled to work to the State Retirement Age for men of 65; and

(c) Following the case of Enderby v. Frenchay Health Authority, employers are required to justify marked differences in pay between jobs of equal value held by people of different sexes even if the procedures which led to the pay differences were not in themselves tainted by sex discrimination.

74. Much effort has been put into ensuring that the public is made aware of the provisions of the sex discrimination and equal pay legislation. As both sexes have identical rights under the law, publicity material is sex-neutral. Publicity measures include Employment Department guides to the Sex Discrimination and Equal Pay Acts and to the employment rights of pregnant workers. The Equal Opportunities Commissions produce a wide range of material and their "Equality Exchange" for employers, trainers and consultants keeps members up to date on legislation and practical developments with a regular information bulletin.

75. In May 1992, the Cabinet Sub-Committee on Women's Issues was established to review and develop the Government's policy and strategy on issues of special concern to women in the workplace and beyond and to oversee their implementation. Some important procedures underpin the development of Government policy and programmes to ensure that women's as well as men's interests are considered; these are in line with the United Nations encouragement to "mainstream" or integrate women's needs and concerns. They include guidance designed to help officials working on the preparation of policy proposals - including legislation, other initiatives and strategic plans for the delivery of services - to ensure that unlawful or unjustifiable sex discrimination does not occur and that similar principles are applied to people from ethnic minorities or with disabilities, older people and ex-offenders. The guidance provides a brief guide to the law and a checklist of action to take; most government departments have issued the guidance and a review of progress will take place shortly.

76. Information on women in public life is set out at paragraphs 459 to 480 below.

Article 4

77. Paragraph 57 of the third periodic report noted the United Kingdom's decision to derogate from article 9 (3) of the Covenant, and from the corresponding article 5 (3) of the European Convention on Human Rights, in respect of Northern Irish terrorism following a decision of the European Court of Human Rights on 29 November 1988 in the case of Brogan and others. Paragraph 18 of the supplementary report to the third periodic report recorded that the Government had concluded that the derogation should remain in place for as long as circumstances required. The terms of the announcement on 14 November 1989, which were given in the supplementary report, explained why the Government had reached that decision.

78. The derogation from article 5 (3) of the European Convention on Human Rights was subsequently challenged before the European Commission of Human Rights in the case of Brannigan and McBride. The Commission found that there had been no breach of the Convention. Its report of 3 December 1991 stated:

> "Given the undisputed need to have a system of extended detention of suspected terrorists for up to 7 days, the limited nature of the Government's derogation, the continuous reviews of the system, the safeguards against abuse and the wide margin of appreciation afforded to States by Article 15 of the Convention, the Commission is of the opinion that the United Kingdom's derogation may be deemed to be strictly required by the exigencies of the public emergency in Northern Ireland. Moreover, there is no reason to doubt that the applicant's detention without being brought before a judicial authority fell within the scope of that derogation."

79. The case was referred to the European Court. The Court's judgement of 26 May 1993 concluded:

> "Having regard to the nature of the terrorist threat in Northern Ireland, the limited scope of the derogation and the reasons advanced in support of it, as well as the existence of basic safeguards against abuse, the

> Court takes the view that the Government have not exceeded their margin of appreciation in considering that the derogation was strictly required by the exigencies of the situation."

80. The Government continues to believe that circumstances require that the derogation from the Covenant and the Convention be maintained.

Article 5

81. The United Kingdom is satisfied that no right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized in the Covenant, or at their limitation to a greater extent than is provided for in the Covenant, is claimed by the United Kingdom at all or on the basis of any provision in the Covenant and is unaware that any such right has been claimed by any group or person in the United Kingdom.

82. It nevertheless remains the case that potential for difficulty can sometimes arise in reconciling rights recognized in the Covenant. Paragraph 371 below, for example, notes that, in the context of press freedom, the Government has been considering how to achieve a proper balance between the rights conferred by articles 17 and 19, while the Government continues to interpret article 20 consistently with the rights conferred by articles 19 and 21.

83. The United Kingdom is also satisfied that the terms of the Covenant have not been relied upon as a basis for any restriction upon or derogation from other fundamental human rights.

Article 6

Capital punishment

84. The legal position on capital punishment has not changed since the third periodic report. The death penalty for murder was abolished in 1965 and, though it remains on the statute book for offences of treason and piracy, it is in practice no longer carried out for any offence.

85. The most recent parliamentary debate took place in the House of Commons in February 1994. In accordance with the policy of successive Governments, members of the House of Commons were given a free vote (that is a vote in which members were not expected to vote according to the collective view of their party) and the Government collectively remained neutral. Reintroduction of capital punishment for murder was defeated by 403 votes to 159, while a proposal to reintroduce capital punishment for the murder of police officers was defeated by 383 votes to 186.

86. The most recent vote taken on the abolition of the death penalty for offences of piracy and treason was held on 17 December 1990, when the motion was defeated. The law on treason is, however, to be reviewed by the Law Commission when priorities allow.

87. Because the question of the death penalty continues to be a matter for a free vote in Parliament, the United Kingdom has no plans to ratify the Second Optional Protocol to the Covenant.

Life expectancy

88. Further to paragraph 63 of the third periodic report, life expectancy for men and women continues to increase and now stands at 74 for men and 79 for women. Health promotion strategies to increase life expectancy and reduce infant mortality are in place throughout the United Kingdom.

89. The most significant factor in promoting children's survival in the United Kingdom has been the work of the child immunization programme; the infant mortality rate was halved between 1978 and 1992. In addition, the rate of Sudden Infant Death Syndrome was halved between 1991 and 1992. Considerable progress has also been made in reducing accidental deaths in children and young people. In the year to June 1993, for example, a reduction of 15 per cent was achieved in child road accident casualties compared with the 1981-1985 baseline average.

Police use of firearms in Great Britain

90. Paragraphs 64 to 68 of the third periodic report described the use of firearms by the police in Great Britain and the guidance and other safeguards that are in place.

91. The number of police officers in England and Wales qualified to carry firearms has fallen from 13,020 on 31 December 1983 to 6,769 on 31 December 1993. This reflects a concentration of police firearms capacity in a smaller number of more highly trained officers and the introduction in most police forces of armed response vehicles, which enable firearms incidents to be contained quickly through the deployment of a relatively small number of armed officers.

92. In May 1994, with the agreement of the Home Secretary, the Commissioner of the London Metropolitan Police announced that police officers manning armed responses vehicles in London would be allowed to carry their sidearms permanently whilst on duty. The earlier arrangement was that all firearms were kept in a locked box in the vehicle unless a senior officer authorized their issue; this continues to be the case for the more powerful weapons carried. This change was made in response to growing concern about firearms-related incidents in the London Metropolitan Police force area. Armed responses vehicles in London are dedicated solely to dealing with such incidents; the maximum number of officers carrying sidearms at any one time as a result of the change is 36.

93. The following table shows the number of operations in which shots were fired by police officers in Great Britain in 1989-1993:

	1989	1990	1991	1992	1993
England and Wales	4	3	5	12	6
Scotland	4	8	5	3	3

94. Following investigation in the case of five of the operations in which shots were fired in England and Wales in 1993, no criminal proceedings were taken against the officer(s) concerned. In the remaining case, the inquest has not yet taken place and no decision has been reached as to whether action should be taken.

Police and military use of firearms in Northern Ireland

95. The Royal Ulster Constabulary (the RUC) is responsible for maintaining law and order in Northern Ireland. The armed forces operate in Northern Ireland to support the RUC in defeating terrorism within the law.

96. Further to paragraphs 69 to 73 of the third periodic report, the police and the armed forces in Northern Ireland continue to face the threat of terrorist attack; 296 police officers and 647 military personnel have been killed as a result of terrorist activity in recent years. In the light of the dangers which they face, members of the security forces regularly carry firearms. Despite this there have been no incidents of deaths being caused by the security forces in terrorist-related incidents since November 1992.

97. Members of the security forces are subject to the same law as everyone else; they have no immunity from the law. They may only use such force as is reasonable in the circumstances for the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected terrorists. In essence, they may employ lethal force if there is imminent danger to life and there is no other way of avoiding that danger. This law applies equally to all citizens throughout the United Kingdom.

98. The RUC's Discipline Code provides guidance on the use of force; similar guidelines are contained within the Rules of Engagement for service personnel. Although they have no legal standing in themselves, they are based upon, and are consistent with, the requirements of the law. They make clear that firearms are a last resort and are only to be used when there is no other way of apprehending those posing a threat to life. Instructions given to members of the security forces are fully consistent with the principle of minimum force and the protection of life. Members of the security forces also receive rigorous training in this area.

99. Every incident involving members of the security forces which results in death or injury is fully and professionally investigated by the police. If they consider that a crime has been committed, it is their duty to bring charges against those concerned. On the completion of the investigation, the police pass the papers to the independent Director of Public Prosecutions for Northern Ireland. If the Director of Public Prosecutions directs that a prosecution should be brought, the courts must decide whether the prosecution have established beyond reasonable doubt that the accused has committed a criminal offence. If criminal proceedings are not instituted or if the member of the security forces is not convicted as charged, that person could still face disciplinary action, for example, for the negligent discharge of a weapon or for breaches in regulations, even when there is no contravention of the ordinary criminal law.

100. Since 1983, seven soldiers and police officers have been charged with murder, one with manslaughter and two with attempted murder in connection with incidents involving the use of lethal force in the course of their duties. To date, these charges have resulted in two convictions for murder and one for attempted murder, together with three acquittals for murder, one for manslaughter and one for attempted murder.

101. As described in paragraph 74 of the third periodic report, plastic baton rounds have been issued to both the police and the Army in Northern Ireland. When rioting and attacks on the security forces put life and property seriously at risk, they are sometimes the only effective way of saving life, avoiding injuries and preventing serious crime. The use of plastic baton rounds ensures that the risk of injury or death is kept to a minimum. Over the years a variety of riot control devices have been and continue to be tested, but so far an effective and improved replacement for the plastic baton round has yet to be found. A new plastic baton round gun was deployed for use by the RUC and the armed forces in Northern Ireland in June 1994; the new gun will further reduce the already low risk of baton rounds causing fatal head injuries. The use of plastic baton rounds has declined dramatically in recent years; during 1993, 523 rounds were fired, in the majority of cases during widespread rioting involving danger to life. The last incident in which a person died from injuries apparently caused by plastic baton rounds occurred in August 1989.

Private possession of firearms

102. No one in the United Kingdom may own or possess a firearm or shotgun unless his local chief officer of police is satisfied that he will not present a threat to public safety. Possession of a firearm, and, in Northern Ireland, of a shotgun, also requires the individual to satisfy the chief officer that he has a good reason for possessing the weapon for legitimate occupational or leisure purposes. If the chief officer is so satisfied, he will issue a firearm or shotgun certificate under the Firearms Act 1968, which applies in Great Britain, or the Firearms (Northern Ireland) Order 1981. The certificate binds the holder to take precautions to prevent access to the gun by unauthorized persons. A certificate will not normally be issued in respect of the most lethal weapons.

Suicide prevention

103. The table below sets out the number of self-inflicted deaths in prisons in England and Wales in recent years:

	Male	Female	Total
1988	37	-	37
1989	46	2	48
1990	49	1	50
1991	42	-	42
1992	39	2	41
1993	46	1	47
1994*	24	1	25

* to 18 July 1994.

104. These figures are set out by age of prisoner in the table below.

	1988	1989	1990	1991	1992	1993
15-16	-	-	2 (4%)	1 (2%)	1 (2%)	-
17-20	9 (24%)	12 (25%)	8 (16%)	4 (10%)	6 (15%)	3 (6%)
21-25	8 (22%)	14 (29%)	7 (14%)	10 (24%)	15 (37%)	10 (21%)
26-30	7 (19%)	10 (21%)	13 (26%)	8 (19%)	7 (17%)	12 (26%)
31-35	2 (5%)	5 (10%)	5 (10%)	7 (17%)	3 (7%)	6 (13%)
36-40	4 (11%)	1 (2%)	8 (16%)	4 (10%)	5 (12%)	8 (17%)
41-45	2 (5%)	2 (4%)	1 (2%)	5 (12%)	2 (5%)	5 (11%)
46-50	2 (5%)	1 (2%)	2 (4%)	1 (2%)	1 (2%)	1 (2%)
51-55	2 (5%)	2 (4%)	3 (6%)	2 (5%)	1 (2%)	1 (2%)
56-60	-	1 (2%)	1 (2%)	-	-	1 (2%)
60+	1 (3%)	-	-	-	-	-
Average age	28.8	27.3	30.9	31.0	28.9	31.3

105. The Prison Service in England and Wales has devoted considerable effort to identifying and monitoring prisoners who are considered to be at risk of suicide. In February 1994, a national instruction and guidance pack were issued and are attached at annex C. These set out revised and updated policies and procedures, which include reception screening, referral for medical assessment and the provision of a wide range of counselling and support services, such as volunteer befrienders. The voluntary sector Trust for the Study of Adolescence assisted in the formulation of the new policies and procedures in order to ensure that they were appropriate to juveniles.

106. Responsibility for implementing the instructions lies with the governor of each establishment, who is supported by a local, multidisciplinary suicide awareness team. The team reviews procedures, monitors incidents of self-harm and develops good practice in the care of those at risk of suicide. All Prison Service staff receive training in suicide awareness and a major training initiative is currently being undertaken to introduce the new procedures.

107. A central Suicide Awareness Support Unit advises establishments on all aspects of suicide management and is evaluating the revised policies. In addition, as noted in paragraph 210 below, all establishments are subject to independent inspection by the Inspectorate of Prisons, the reports of which comment on suicide prevention measures. Conditions of detention are also regularly monitored by the Board of Visitors at each establishment.

108. Between 1981 and 1992 there were 67 self-inflicted deaths in Scottish prisons; 18 of the prisoners were young offenders. The Scottish Prison Service launched its suicide prevention strategy in April 1992, when a guidance manual was issued to staff setting out the service's policy on helping prisoners overcome suicidal tendencies and giving detailed instructions on the procedures to be followed. All staff are trained in suicide prevention as part of their initial training and the strategy is reviewed annually to determine whether changes are required as a result of operational experience.

109. The table below sets out the number of self-inflicted deaths in prisons in Northern Ireland in recent years:

	Male	Female	Total
1988	2	-	2
1989	1	-	1
1990	1	-	1
1991	1	-	1
1992	-	-	-
1993	-	-	-
1994*	2	-	2

* to 22 August 1994.

110. These figures are set out by age of prisoner in the table below:

	1988	1989	1990	1991	1992	1993	1994
16-20	1 (50%)	-	-	-	-	-	-
21-25	1 (50%)	-	-	-	-	-	1 (50%)
26-30	-	-	-	-	-	-	1 (50%)
31-35	-	1(100%)	1(100%)	1(100%)	-	-	-
Average age	20.5	31	31	32	-	-	25.5

111. In 1991, the Northern Ireland Prison Service produced a suicide awareness and prevention manual, which, for example, provides guidance on how prisoners facing a personal crisis can be identified and supported through their difficulties. Each prison establishment and the young offenders centre in Northern Ireland has a suicide prevention management group, which meets on a regular basis, and staff training needs are regularly reviewed. A general review of suicide awareness and prevention policy is planned for later this year.

112. The most recent suicide in an Immigration Detention Centre occurred in 1990, but there have been a number of attempted suicides in recent years. Suicide awareness and self-injury prevention training and written guidance are provided for Immigration Service officers.

Article 7

Conventions against torture

113. Paragraph 98 of the third periodic report noted that the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment entered into force in respect of the United Kingdom on 7 January 1989. The United Kingdom's first periodic report under the Convention was submitted in March 1991 and the United Kingdom was examined on that report before the Committee established under article 17 of the Convention in November 1991. The United Kingdom's second periodic report is to be submitted shortly.

114. Paragraph 99 of the third periodic report noted that the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment entered into force in respect of the United Kingdom on 1 February 1989. The Convention provides for the appointment of an independent committee with full rights to enter places of detention and interview detained persons in private to ensure that torture or inhuman or degrading treatment does not take place. In 1990 a delegation from the Committee visited a number of prisons and police stations in Great Britain. The Government cooperated fully and openly with the Committee and agreed to the publication of all reports. The Committee's report was published in 1991, together with a detailed United Kingdom response, which was followed by a progress report by the United Kingdom in March 1993.

115. Following the publication of the Committee's report in 1991, the Government recognized the need for improvements in three of the prisons visited - Brixton, Wandsworth and Leeds. The United Kingdom's follow-up report of March 1993 provided a factual account of the progress made in respect of these improvements and of the further work to be done. A delegation from the Committee returned to Great Britain in May 1994. The Government currently expects to receive the Committee's report of that visit early in 1995.

116. A delegation from the Committee visited Northern Ireland in 1993. Its report was sent to the United Kingdom Government in April 1994 and is currently being studied with a view to a response in October this year.

Training

117. The prohibition against torture and other cruel, inhuman or degrading treatment or punishment is universally understood throughout the United Kingdom. All training programmes for law enforcement personnel and other persons involved in the custody, questioning or treatment of any individual subject to any form of arrest, detention or imprisonment emphasize the need to treat everyone as an individual and with humanity and respect and to act within the law at all times.

118. Training for the police service, for example, continues to address the statutory and common law provisions governing the rights of the individual. In particular, a programme of training in investigative interviewing has been introduced for all police officers in England and Wales; the concepts and methods contained in this programme give full recognition to the dignity and rights of the individual and are based on published ethical principles. A second training programme, aimed at the needs of those supervising interviews, is now being introduced.

119. All new prison officers in England and Wales receive a nine-week training course, in which they are taught the extent of their authority and are given detailed guidance on what behaviour is appropriate in dealing with prisoners; they also receive instruction on how to control and restrain prisoners in an approved manner.

120. Immigration Service officers engaged in law enforcement work and in the detention of persons held under the Immigration Act 1971 receive training in the extent and proper exercise of their powers and in racial awareness. Similar training is provided for private security staff operating on behalf of the Immigration Department and engaged in the detention or escorting of immigration detainees.

121. In the absence of any previously identified instances of torture in any United Kingdom establishment, no formal training is afforded health-care professionals in the identification of signs of torture. Nevertheless, all health-care professionals, and, in particular, doctors, nurses, and health visitors, are adequately equipped through their statutory pre-registration training and education quickly to recognize any physical signs of abuse. As a part of their routine duty of care to patients, doctors and nurses continuously monitor the physical and mental well-being of patients through formal and informal examinations. Similarly, general medical practitioners, psychiatrists and psychiatric nurses are adequately equipped through their training to identify any psychological feature which indicates mental anguish resulting from whatever cause.

Confession evidence

122. As described in paragraph 5 of the initial report, it is an absolute rule of law in each part of the United Kingdom that a confession which may have been obtained by oppression is inadmissible as evidence against the person who made the confession. In a jury trial, this question is decided by the judge after hearing evidence and argument in the absence of the jury and, if the judge rules that the confession is inadmissible, no reference to the confession may be made when the trial proper recommences.

123. In England and Wales, this principle is reinforced by section 76 of the Police and Criminal Evidence Act 1984. If it is represented to the court in any criminal proceedings that a confession may have been obtained by oppression or under any other circumstances which might render the confession unreliable, the burden of proof is on the prosecution to prove to the court beyond reasonable doubt that the confession was obtained without oppression or other means which might render it unreliable. If the prosecution cannot satisfy the court to this burden of proof, the confession may not be used in evidence, notwithstanding that it may be true.

124. In Northern Ireland, in relation to scheduled offences, which are specified in Schedule 1 to the Northern Ireland (Emergency Provisions) Act 1991 and which, if terrorist-related, are tried by a court presided over by a single judge without a jury, section 11 of the 1991 Act provides that a confession is inadmissible if it may have been obtained as a result of "torture, inhuman or degrading treatment, or the use or threat of violence". The judge also retains a wide discretion to exclude a confession if he considers it appropriate to do so, in order to avoid unfairness to the accused person or otherwise in the interests of justice.

125. For convenience, matters relating to the discipline of prison staff, police officers and members of the armed forces and to complaints against them are dealt with under this article.

Prison staff discipline and prisoners' complaints in England and Wales

126. Paragraphs 78 and 79 of the third periodic report set out the procedures for making and investigating complaints against members of the Prison Service in England and Wales. A further development in the handling of formal complaints from prisoners has been the appointment of a Prisons Ombudsman by the Government in April 1994. The Prisons Ombudsman will consider grievances from prisoners, including those about disciplinary offences, once all internal procedures have been exhausted. The Ombudsman will rely on powers to make recommendations to the Prison Service and, where necessary, the Home Secretary. The remit of the post includes prisons contracted out to the private sector, contracted-out services within prisons and the actions of those working in prisons who are not employed by the Prison Service.

127. The Prisons Ombudsman will examine the merits of individual cases as well as the operation of procedures. All matters affecting prisoners will be within the Ombudsman's remit, except for those which are the subject of litigation or criminal proceedings and for actions of individuals or bodies outside the Prison Service (e.g. the courts, police, Immigration Service, Department of Social Security and the Parole Board - but boards of visitors will be included). The inclusion within the post's remit of the clinical judgement of prison doctors will, however, be subject to discussions with the Chief Medical Officer and with medical professional bodies. Ministers' exercise of their function in considering the release of mandatory life sentence prisoners will not be within the Prisons Ombudsman's remit, but the Ombudsman will be able to review related administrative action by the Prison Service. There will be tight time-limits for all major stages of the Ombudsman's work in dealing with complaints.

128. The Prisons Ombudsman will have unfettered access to Prison Service documents, establishments and individuals. In exceptional cases the Ombudsman will have to withhold information from complainants and the public in the interests of national security, or to safeguard particular security measures, or to protect a third party or to safeguard the mental or physical health of a prisoner.

129. The Prisons Ombudsman's office will be independent of Prison Service headquarters. It will include three assistant ombudsmen, all appointed on contracts, and nine support staff seconded from the Home Office. The Prisons

Ombudsman will report annually to the Home Secretary and a shorter version of the report will be published. The appointment of the Ombudsman will not in any way affect prisoners' rights to approach the Parliamentary Commissioner for Administration, nor will it restrict their freedom to pursue complaints in any other way.

130. Paragraph 160 of the third periodic report noted that all staff working in prisons, remand centres and young offender institutions are subject to the criminal law. Were prima facie evidence to exist of a criminal offence against an inmate's person or property, the police would be invited to investigate. Conviction for such an offence would normally result in dismissal, in addition to any penalty imposed by the court.

131. Staff are also subject to internal disciplinary procedures. These were extensively revised in July 1993 and the main features are as follows:

(a) A common standard of conduct has been laid down for all staff working in prison establishments and at Prison Service headquarters and units;

(b) All staff are liable to face disciplinary proceedings if they fail to meet that standard; and

(c) The standard of proof in disciplinary proceedings is the balance of probabilities.

The standard of conduct, in relation to inmates, requires that all members of staff must be: "Courteous, reasonable and fair in their dealings with all inmates ... irrespective of race, religion, gender, disability, sexual orientation or any other irrelevant factor".

132. The Prison Service Code of Discipline gives prison governors the power to award a range of disciplinary penalties, which are primarily designed to improve the performance of individual members of staff. The penalties available include warnings, financial restitution, loss of increment, removal from the field of promotion, downgrading and dismissal. In the event of a failure to show an improvement, or in cases of further acts of indiscipline, governors have the power (subject to a right of appeal) to dismiss members of staff. They may also dismiss staff for a single act of gross misconduct.

Prison staff discipline and prisoners' complaints in Scotland

133. In February 1994 the Scottish Prison Service introduced a new internal complaints system for dealing with prisoners' requests and complaints. The objectives of the new procedures are to ensure that:

(a) Requests and complaints are resolved as close as possible to the source of the matter at issue;

(b) Those who take decisions are accountable for them;

(c) Prisoners receive reasoned responses within a set time; and

(d) Accurate and detailed records are maintained.

134. Requests and complaints are dealt with initially within the Prison Hall in which the prisoner is located. Issues which cannot be settled within the Hall are referred to an Internal Complaints Committee. Prisoners have the right to appear in person before the Committee and have the right to seek the assistance of a member of staff or of an individual connected with the prison, such as a social worker or a member of the Visiting Committee of independent lay persons. Whenever possible, the Committee informs the prisoner at the hearing of its decision. If a decision is not taken at that time, the prisoner receives a written reply within two days of the hearing. Prisoners have the opportunity to appeal against the Committee's decision to the governor in charge, who will normally deal with such appeals within seven days. If, after the governor has given his decision, the prisoner wishes to take the matter further, he will have the opportunity to appeal to an External Complaints Adjudicator, who is expected to be appointed in the October 1994. Prisoners will be provided with reasoned written decisions at each stage of the proceedings. Prisoners will continue to have access to all the external avenues of complaint which are available at present.

135. Paragraph 77 of the third periodic report mentioned that a comprehensive review of the Prison Rules was being undertaken in Scotland. This has been completed and the new Rules were laid before Parliament in July 1994 and the vast majority of the provisions will come into force on 1 November 1994. The new rules abolish the disciplinary offences of making a false and malicious allegation against an officer and of repeatedly making groundless complaints. They also abolish the so-called "simultaneous ventilation rule", which required prisoners to put forward their grievances within the internal complaints system at the same time as any letter of complaint might be written to persons or bodies outside the prison system.

Prison staff discipline and prisoners' complaints in Northern Ireland

136. The review of the Prison Rules that was ongoing in Northern Ireland in 1991, and to which reference was made during the oral examination on the third periodic report (CRC/C/SR.1048, para. 56), was not completed. A new review began in August 1993 and draft Rules were published for public consultation in April 1994. The consultation period ended in June and it is hoped that the Rules will be made and come into force later in the year.

137. Following the making of the new Prison Rules, Standing Orders will be drawn up to give effect to the new provisions. This will be part of a review of all the Standing Orders.

Police discipline and complaints in England and Wales

138. Paragraphs 81 to 84 of the third periodic report described the procedures established under the Police and Criminal Evidence Act 1984 for handling complaints against the police in England and Wales and considering disciplinary action. These procedures remain in force and the Police Complaints Authority continues to exercise independent oversight of individual cases.

139. Detailed figures of complaints against the police are published each year in a Home Office Statistical Bulletin and the Annual Report of the Commissioner of the London Metropolitan Police. Although the number of complaints made in recent years has shown a slight rise - of 6.5 per cent in four years, some of which is due to changes in recording practice - the number of complaints substantiated has remained about the same:

	1989	1990	1991	1992	1993
Complaints received	20 956	21 284	20 688	21 733	22 327
Complaints substantiated	765	847	813	760	756

140. As explained in paragraph 92 of the third periodic report, the action taken following the completion of the investigation into a police complaint is subject to review by the Police Complaints Authority, which may recommend or direct disciplinary action if it considers this the right course and no such action is proposed by the police force in question. Figures are not available for 1993 in the form given in paragraph 93 of the third periodic report; the table below gives alternative figures extracted from the Authority's annual reports for recent years:

Year	Complaints a/	Disciplinary b/ charges
1989	9 014	193 (54)
1990	13 679	219 (69)
1991	13 945	245 (73)
1992	13 234	252 (56)
1993	10 907	236 (45)

a/ This column gives figures for complaints where the subsequent disciplinary action proposed was reviewed by the Police Complaints Authority after the complaints had been fully investigated.

b/ Total disciplinary charges arising from these complaints. Figures for PCA recommendations or directions that disciplinary charges be brought are given in brackets.

141. In 1993, statistics were collected, for the first time for some years, in which the number of police officers convicted of a criminal offence was broken down by offence. Six officers were convicted of violence against the person (two as a result of a complaint), two being imprisoned. Two officers were convicted of perjury, one (convicted as a result of a complaint) being imprisoned. There were no other convictions of police officers for violence or malpractice.

142. The Police and Magistrates' Courts Act 1994, which should come into force in April 1995, makes certain changes to the police disciplinary procedures. The role of the Police Complaints Authority will remain largely unchanged under the new procedures, although complaints about less serious matters (not, for example, involving allegations of assault or corruption but covering such matters as incivility or poor time-keeping) will, in future, be dealt with as part of the chief officer's normal management responsibility for the police force, without any involvement by the Police Complaints Authority.

143. Any serious misconduct by a police officer towards a member of the public will continue to be a criminal offence and be dealt with as such. Within the police service, the main issue to be resolved is whether officers against whom allegations of serious misconduct have been made should remain in the service. New procedures for assessing this will dispense with the length and formality of the current, quasi-judicial disciplinary proceedings and concentrate on deciding whether or not the officer behaved in a way appropriate to his office.

Police discipline and complaints in Scotland

144. Further to paragraph 94 of the third periodic report, in 1993, 364 police discipline cases were dealt with under the code set out in Schedule 1 to the Police (Discipline) (Scotland) Regulations 1967; 73 of these proceeded to a disciplinary hearing, the outcomes of which were as follows:

Dismissed	4
Required to resign	6
Reduced in rank	5
Reduced in rate of pay	1
Fined	28
Reprimanded	26
Cautioned	2
No finding of guilt	1

145. Of the cases that did not proceed to a disciplinary hearing, the majority resulted in counselling by a senior officer, a number were found to be unsubstantiated and in some cases the officer resigned before disciplinary procedures were completed.

146. The Police and Magistrates' Courts Act 1994 will make changes to police disciplinary procedures in Scotland similar to those to be made in England and Wales. It will, however, continue to be the responsibility of the chief officer of the police force concerned to report any suspected criminal conduct on the part of one of his officers to the Procurator Fiscal, who will decide whether proceedings should be taken against that officer. The Act will also empower Inspectors of Constabulary in Scotland to consider representations from complainants dissatisfied with the way in which the police have handled their complaint and, where appropriate, to direct the chief officer of the police force concerned to re-examine the case.

Police discipline and complaints in Northern Ireland

147. Paragraphs 96 and 97 of the third periodic report described how the procedures for handling complaints against the police in Northern Ireland are established under the Police (Northern Ireland) Order 1987 and how independent oversight of the complaints and discipline system is exercised by the Independent Commission for Police Complaints for Northern Ireland.

148. Detailed figures of complaints against the police are published each year in the Annual Report of the Chief Constable of the Royal Ulster Constabulary (the RUC) and in the Annual Report of the Independent Commission for Police Complaints. There has been an increase of about 10 per cent in the number of complaints made in recent years, but the number of complaints substantiated has remained about the same:

	1989	1990	1991	1992	1993
Complaints received	3 989	4 132	4 364	4 663	4 455
Complaints substantiated	56	61	48	46	42

149. The Independent Commission for Police Complaints must supervise the investigation of all complaints alleging death or serious injury and may choose to supervise the investigation of any other complaint. In 1993, the Commission completed the supervision of 248 cases.

150. The action taken following the completion of the investigation into a police complaint is subject to review by the Independent Commission for Police Complaints, which may recommend or direct disciplinary action if it considers this the right course and no such action is proposed by the police. Details of the instances of disciplinary charges are listed below:

Year	Complaints a/	Disciplinary charges b/
1989	803	14 (12)
1990	888	29 (14)
1991	971	27 (19)
1992	1 105	39 (27)
1993	1 209	25 (15)

a/ This column gives figures for complaints where the proposed disciplinary action was reviewed by the ICPC.

b/ Total disciplinary charges arising from these complaints. Figures for ICPC recommendations or directions that disciplinary charges be brought are given in brackets.

151. If, following the investigation of a complaint, there are allegations of possible criminal conduct, these are passed to the independent Director of Public Prosecutions for Northern Ireland, who decides whether criminal charges should be brought. In 1993, the Director of Public Prosecutions decided that criminal charges arising out of complaints should be brought against six RUC officers.

Lay visitors to police stations

152. Arrangements have been introduced by all police authorities in England and Wales for members of the public to be appointed as lay visitors to police stations. Lay visitors make unannounced visits to police custody suites where they talk to detainees and monitor the application of the requirements of the Code of Practice (C) issued under section 66 of the Police and Criminal Evidence Act 1984 and relating to the detention, treatment and questioning of suspects. Lay visitors report on their visits to the police, the local police authority and community groups.

153. Members of the public have also been appointed as lay visitors to police stations in Northern Ireland; they make unannounced visits to police custody suites where those detained under the Police and Criminal Evidence (Northern Ireland) Order 1989 are held and report on their visits to the Police Authority for Northern Ireland. In Scotland, it is considered that there is no need for lay visiting to police stations because prisoners are not held on remand in police cells and are generally held only overnight to appear in court the following day; existing arrangements, which allow for visits to police stations by members of police authorities and by the Scottish Prisons Inspectorate, are thought to provide an adequate safeguard.

Military discipline and complaints in Northern Ireland

154. The armed forces operate in Northern Ireland in support of the police. Any complaint against a member of the armed forces alleging criminal behaviour is investigated by the police and not by the armed forces themselves. It is the policy of the armed forces to cooperate fully with any such investigation. In addition, any member of the public has the right to bring a civil action against a soldier in respect of any alleged criminal act.

155. Steps have been taken to make it easier for a member of the public to make a complaint against a member of the armed forces. A revised leaflet has been published, which is widely available, setting out how to make a complaint (a copy is attached at annex D). In addition, each four-man team of the armed forces operating in support of the police carries a "Patrol Identification Card", which uniquely identifies the patrol and is handed to any member of the public who may wish to make a complaint. This facilitates any subsequent investigation which may be necessary, whether by the civil police (if the allegation is criminal) or by the military authorities (if it is non-criminal).

156. In order to provide an independent audit of the procedures for handling non-criminal complaints against the armed forces in Northern Ireland, section 60 of and Schedule 6 to the Northern Ireland (Emergency Provisions) Act 1991 provides for the Secretary of State for Northern Ireland to appoint

an Independent Assessor of Military Complaints Procedures in Northern Ireland; Mr. David Hewitt was appointed by the Secretary of State in December 1992. The Independent Assessor reviews and makes recommendations concerning the procedures adopted by the General Officer Commanding Northern Ireland (the GOC) for receiving, investigating and responding to relevant complaints. He is obliged to receive and investigate representations concerning those procedures and may investigate their operation. The Independent Assessor may also require the GOC to review any particular case in which he considers any of those procedures to have operated inadequately and may make recommendations to the GOC concerning such inadequacies either on a general basis or in relation to a particular complaint.

157. The Independent Assessor's first annual report to the Secretary of State was published in May 1994. In it the assessor stated his belief that military complaints procedures in Northern Ireland are as thorough as any in the world and acknowledged that those procedures have helped to establish and maintain a good and improving relationship between the armed forces and the people of Northern Ireland. He also made a number of suggestions for further improvement; these suggestions are being examined carefully with a view to their implementation. A copy of the report, which contains full statistics, is attached at annex E.

Mental health

158. The treatment of people detained in England and Wales under the Mental Health Act 1983 and in Scotland under the Mental Health (Scotland) Act 1984 is monitored by, respectively, the Mental Health Act Commission and the Mental Welfare Commission for Scotland, which are independent statutory bodies. All detained patients are offered the opportunity of an interview in private when the Commissioners visit hospitals. Similar provisions apply in Northern Ireland; the Mental Health (Northern Ireland) Order 1986 provides that the Mental Health Commission for Northern Ireland keep under review the care and treatment of all mentally disordered patients.

159. Other safeguards include the power of the independent Mental Health Review Tribunal, to which a patient detained under the Mental Health Act can apply, to discharge a patient if continued detention in hospital is no longer necessary.

Prison medical services

160. Prison Standing Orders require that in carrying out their duties and responsibilities, medical officers should at all times observe the United Nations Principles of Medical Ethics relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

161. In compliance with the Principles, no person deprived of his liberty may be subjected to medical experimentation. It is, however, permissible to carry out an experimental course of treatment or clinical trial on a prisoner where such treatment is intended to address the specific ill-health of that person, full and informed consent is given by that person and the treatment is

conducted under medical supervision. A legally incapacitated person may not undergo medical experimentation unless his legal representative consents; if the legally incapacitated person is capable of understanding, his consent is also required.

162. As far as medical research in prisons is concerned, which may be based on existing data or require the direct involvement of the subject, in April 1994, on the advice of the non-statutory Health Advisory Committee, the Prison Service in England and Wales established a Medical Research Ethics Committee, with independent membership, to advise on proposals for research in prisons.

Immigration Detention Centres

163. Visiting Committees have been appointed at the two Immigration Detention Centres where detainees are held for more than a few days. The members are appointed by the Secretary of State and are recruited from various sources, nominations having been sought in the past from such organizations as the Council of Churches for Britain and Ireland, the Samaritans and the authorities responsible for local government. In addition to seeking to have representation from both sexes, efforts are made to recruit members from the ethnic minorities.

164. The role of the Committees is to have regard to the welfare of the detainees and to offer advice on the running of the Centres. Committee members have the right to enter the Centres at any time, to go unaccompanied wherever they wish within the Centres and to speak to anyone who wishes to speak to them or to whom they wish to speak, such interviews to be in private if desired. The Committees appoint a rota visitor each week and he or she is expected to visit the Centre at least once during that time and to take up any matters of concern with the Immigration Service at the Centre. The Committees meet once a month and are expected to submit an annual report to the Secretary of State on the running of the Centres, such reports to include any advice or suggestions they may consider appropriate.

165. In addition, the Chief Inspector of Prisons in England and Wales (see para. 210 below) is invited to conduct inspections of these long-term Immigration Detention Centres. One such inspection has already been conducted at Harmondsworth Detention Centre and the Chief Inspector has been invited to inspect Campsfield House Detention Centre, which was opened in November 1993.

Asylum

166. All applications for asylum in the United Kingdom are considered in accordance with the criteria laid down in the 1951 United Nations Convention relating to the Status of Refugees and its 1967 Protocol. If an applicant does not qualify for refugee status, consideration is given as to whether exceptional leave to remain in the United Kingdom should be granted for humanitarian reasons.

Extradition

167. The likely treatment on return of the person sought is one of several factors which the United Kingdom considers before entering into new extradition arrangements with any State and which the courts and the Secretary

of State take into account when considering individual extradition requests. Under sections 6 (1) (c), 6 (1) (d), 11 (3) (c), 12 (1) and 12 (2) (a) (iii) of and paragraphs 1 (2) and 8 (2) of Schedule 1 to the Extradition Act 1989, extradition would be refused if it appeared that the person sought would suffer torture or ill treatment if returned. The European Convention on Human Rights would also provide protection in such a case.

168. The ultimate decision whether or not to extradite a person is made by the Secretary of State. Section 12 (1) of and paragraph 8 (2) of Schedule 1 to the 1989 Act confer on him a completely unfettered discretion to refuse to return any person whose extradition has been requested and who has been committed by the court to await the Secretary of State's decision on the request. A person whose extradition has been requested has the right to make representations against his return to the Secretary of State, which must be considered; there is no restriction on the nature of the representations which may be put forward. Any decision of the Secretary of State to order surrender is open to challenge by way of judicial review. Unless the courts are satisfied that his decision is lawful and has been properly made, it will be overturned.

Corporal punishment

169. Paragraph 101 of the third periodic report explained that the Education (No. 2) Act 1986 and an Order in Council for Northern Ireland abolished the use of corporal punishment in all State-maintained schools. The law also exempts from corporal punishment publicly funded pupils in independent schools. The Education Act 1993 provides that, where corporal punishment is administered to privately funded pupils in independent schools, the punishment should not be "inhuman or degrading".

170. In September 1992, the European Court of Human Rights heard the case of Costello-Roberts v. the United Kingdom, which related to the use of corporal punishment in an independent school. The Court ruled that the United Kingdom was not in breach of either article 3 (torture and inhuman or degrading treatment or punishment) or article 8 (right to privacy) of the European Convention on Human Rights.

Article 8

171. The United Kingdom has no legislative or administrative developments to report under this article.

Article 9

Police powers in England and Wales

172. Paragraphs 108 to 110 of the third periodic report described the powers of the police in England and Wales in the investigation of crime and the safeguards for the suspect contained in the Police and Criminal Evidence Act 1984 and the four Codes of Practice (A to D) issued under section 66 of the 1984 Act. Both the Act and the Codes came into force on 1 January 1986. Paragraph 24 of the supplementary report described the main changes made to the Codes in 1988; the revised Codes came into effect on 1 April 1991 following a period of public consultation and the approval of Parliament.

173. As mentioned in paragraph 25 of the supplementary report, in 1988, Parliament approved a fifth Code of Practice (E), issued under section 60 (1) (a) of the 1984 Act, which covered the tape recording of interviews with persons suspected of the commission of an indictable offence (that is an offence triable by jury in the Crown Court) (except certain indictable offences relating to terrorism or official secrets). The Police and Criminal Evidence Act 1984 (Tape Recording of Interviews) (No. 1) Order 1991, requiring the tape recording of such interviews in accordance with the Code, came into effect in all but one of the 43 police forces in England and Wales on 1 January 1992; the Police and Criminal Evidence Act 1984 (Tape Recording of Interviews) (No. 2) Order 1991, applying the requirement to the remaining force, came into effect on 9 November 1992. The Code requires the tape recording of interviews with a suspect at a police station under conditions strictly controlled to ensure the integrity of the tape. A master tape for use in any subsequent criminal proceedings is prepared under seal in the presence of the suspect and copies of the tape are made available to the defence and prosecution in advance of any court hearing.

174. Paragraph 26 of the supplementary report to the third periodic report referred to a two-year experiment, which began in March 1990, to establish whether the tape recording of police interviews should be extended to interviews with terrorist suspects. Following that limited experiment, the Government decided that, from 1 December 1992, tape recording should be applied on a trial basis to all interviews with terrorist suspects at police stations in England and Wales. With a few minor modifications those interviews are being conducted in accordance with the guidance on tape recording contained in Code of Practice (E) issued under the Police and Criminal Evidence Act 1984. The trial is due to run until December 1994. The results will then be evaluated to decide whether the practice should be made permanent.

175. The Government has concluded, after consultation with the Chief Constable of the Royal Ulster Constabulary, who is the principal security adviser to the Secretary of State for Northern Ireland, that the introduction of tape recording of interviews with terrorist suspects in Northern Ireland would not be in the overall interests of justice. In the particular circumstances of Northern Ireland, electronic recording of interviews would inhibit the chances of lawfully obtaining information that would lead to the conviction of terrorists or to the saving of other people's lives. In Scotland, the Government is considering, in consultation with the police and the Crown Office, the issues associated with the tape recording of interviews with terrorist suspects with a view to determining what arrangements might be involved.

176. Guidance on video recording of interviews with suspects was issued to police forces in England and Wales in February 1993. Forces were advised that, in view of the considerable resource implications for the whole criminal justice system, there were no plans to introduce widespread video recording of interviews with suspects on a similar basis to audio tape recording. The use of video recording equipment at force level is a matter for the individual chief officer of police. At present, only a limited number of forces make video recordings of interviews and these are generally restricted to serious and complex cases.

177. The Criminal Justice and Public Order Bill, which is currently before Parliament, would make the following changes to police powers in England and Wales:

(a) Stop and search in anticipation of serious incidents of violence. A police officer normally of at least the rank of Superintendent would be able to authorize, within a specified area and for a specified period of up to 24 hours, uniformed officers to stop and search persons or vehicles for offensive weapons or dangerous instruments, where the authorizing officer had reasonable grounds for believing that serious incidents of violence might take place within the area and where it was expedient to do so to prevent such acts occurring;

(b) Police bail. The Bill would provide for conditions to be attached to the granting of police bail and provide a power of arrest in relation to a person who failed to surrender at a police station when bailed to do so (see para. 186 below); and

(c) Taking and retention of body samples. The Bill would bring the arrangements for taking non-intimate body samples more closely in line with the existing arrangements for taking fingerprints. The main changes would be to lower the threshold of offence at which body samples could be taken and to allow body samples to be taken whether or not they were relevant to the offence under investigation. The provisions would also permit fingerprints and body samples taken to be made the subject of a speculative search against existing fingerprint and DNA records and would enable the establishment over time of a database of the DNA profiles of offenders.

178. The Criminal Justice and Public Order Bill would also amend the Prevention of Terrorism (Temporary Provisions) Act 1989 to enable a senior police officer to authorize uniformed police officers to stop and search vehicles, and to search any baggage carried by pedestrians (but not to search the pedestrians themselves), within a specified locality and for a specified period of up to 28 days, in order to prevent acts of terrorism. The powers would enable police officers to search for articles of a kind which could be used for a purpose connected with the commission, preparation or instigation of acts of terrorism. The new provision would also apply in Scotland; powers of stop and search for counter-terrorist purposes already exist in Northern Ireland under the Northern Ireland (Emergency Provisions) Act 1991.

Police powers in Scotland

179. Paragraphs 116 to 118 of the third periodic report described the powers of the police in Scotland and the safeguards for the suspect, both of which are established primarily under common law. Further to paragraph 117 (e), non-statutory guidance on the tape recording of interviews in non-terrorist cases has been issued to all police forces in Scotland; all Scottish police forces record at least interviews conducted by their Criminal Investigation Department as a matter of routine.

Police and military powers in Northern Ireland

180. As explained in paragraph 113 of the third periodic report, police powers in Northern Ireland in dealing with non-terrorist crime are similar to those in England and Wales; the Police and Criminal Evidence (Northern Ireland) Order 1989 contains largely equivalent provisions to the Police and Criminal Evidence Act 1984. Police procedures in dealing with such crime are similarly governed by statutory Codes of Practice; these came into force early in 1990. Tape recording of interviews with non-terrorist suspects has been introduced on a non-statutory basis; a statutory Code of Practice is in preparation.

181. The powers of the police and the Army in Northern Ireland in relation to terrorist-related crime were set out in paragraphs 114 and 115 of the third periodic report and paragraph 29 of the supplementary report. The Northern Ireland (Emergency Provisions) Act 1991, which, as noted in the supplementary report, re-enacted with certain amendments the 1978 and 1987 Emergency Provisions Acts, largely came into force in August 1991. The 1991 Act has a maximum duration of five years and, like the previous Emergency Provisions Acts, it is subject to annual parliamentary renewal and to regular review by an independent reviewer whose reports are published.

182. The 1991 Act requires the Secretary of State to make Codes of Practice governing the detention, treatment, questioning and identification of persons detained under the Prevention of Terrorism (Temporary Provisions) Act 1989. The Codes of Practice, a copy of which is attached at annex F, replaced previous non-statutory guidelines and came into force on 1 January 1994. Any police officer failing to comply with the requirements of the Codes is liable to disciplinary proceedings and the Codes of Practice are admissible in evidence in all criminal and civil proceedings.

183. The Codes of Practice, which include provision for regular medical examination, represent a further important safeguard for those detained under the Prevention of Terrorism (Temporary Provisions) Act 1989 at the main police offices in Northern Ireland where such detainees are held (which are also referred to as "Holding Centres"). Other, non-statutory safeguards include the monitoring of all interviews on closed circuit television by a uniformed officer unconnected with the investigation and the appointment by the Secretary of State in December 1992 of Sir Louis Blom-Cooper QC as the Independent Commissioner for the Holding Centres. The role of the Commissioner is to observe, comment on and report on the conditions under which detainees are held and to ensure that both the statutory and administrative safeguards are being properly applied. The Commissioner may inspect all areas where detainees are held and the arrangements for closed circuit television monitoring. He may also scrutinize custody records and, with their consent, may interview detainees about their welfare and treatment. The Commissioner's first annual report to the Secretary of State was published in March 1994; a copy is attached at annex G.

184. As described in paragraph 156 above, the 1991 Act also established a new office of the Independent Assessor of Military Complaints Procedures in Northern Ireland, whose function is to keep under review the operation of procedures for investigating and responding to complaints against the Army.

Bail

185. The framework for remand decisions by the courts in England and Wales is the Bail Act 1976, which provides a right to bail, subject to the exceptions provided by Schedule 1 to the Act. Decisions by the police regarding bail are bound by the Police and Criminal Evidence Act 1984 and the 1976 Act. Legislation following similar principles exists in Scotland; in Northern Ireland, there is no right to bail (the decision to grant bail is at the discretion of the court).

186. The Criminal Justice and Public Order Bill, which is currently before Parliament, contains certain measures concerned with bail decisions by the police and the courts in England and Wales. The Bill would provide:

(a) A power for the police to detain a person, after charge, to prevent offending; this would replace existing powers which are limited to the prevention of certain types of offence;

(b) A power for the police to arrest without warrant for breach of police bail;

(c) A power for the police to grant bail with conditions after charge. It is intended that this would reduce the numbers of defendants detained in police custody overnight for the sole purpose of a court appearance the following morning to ask the court to attach conditions to bail;

(d) A power for the court to reconsider its decision to grant bail before the next scheduled appearance of the defendant in court if new information is made available;

(e) The removal of the right to bail for a person charged with or convicted of an offence allegedly committed whilst on bail; and

(f) Automatic custody for those charged with or convicted of the most serious offences (homicide or rape) where they already have a conviction for such an offence.

187. The purpose of these measures is to ensure that appropriate bail decisions are made by the police and the courts. These measures are accompanied by work to improve the quality and flow of information available to those taking bail decisions and to better assess the risk of releasing a person on bail.

188. The Bill would also extend to 12-14 year olds (as already provided in relation to 15-16 year olds, the power of the police to hold juveniles in police cells on those rare occasions when, following charge and before their first court appearance, bail is refused and there is a risk to the public of serious harm from the child but no local authority secure accommodation is available.

Persons subject to immigration control

189. Paragraphs 120 to 122 of the third periodic report described the provisions of the Immigration Act 1971 governing the detention of persons subject to immigration control and the relevant appeals procedures. As noted in paragraph 120, the power to detain is used as a last resort, when there are clear and positive grounds for believing that the person will abscond if left at liberty, and after all the known circumstances of the person concerned have been taken into account. Consideration of the cases of those detained is given the highest priority and the need for continued detention is regularly reviewed.

190. As set out in paragraph 295 below, the Asylum and Immigration Appeals Act 1993, which came into force in July 1993, introduced an in-country right of appeal at some stage before removal, with an oral hearing before an independent Special Adjudicator, for all refused asylum applicants, except for those who represent a threat to national security (see art. 32 (2) of the 1951 United Nations Convention relating to the Status of Refugees). This supplements the appeal provisions in the Immigration Act 1971. Any detained person refused asylum who has an appeal pending may apply to the independent Appellate Authority for bail at any stage until the appeal has been finally determined. The courts also have the power to grant a writ of habeas corpus.

191. Further to paragraph 123 of the third periodic report, the functions of the United Kingdom Immigrants Advisory Service, which was disbanded in July 1993, have been taken over by the Refugee Legal Centre and the Immigration Advisory Service. Both are independent organizations which receive government funding to provide free advice and assistance, the Refugee Legal Centre to asylum seekers and the Immigration Advisory Service to persons with immigration rights of appeal.

192. Further to paragraph 124 of the third periodic report, the numbers detained under deportation and illegal entry powers from 1989 to 1993 are set out below:

Detention under deportation powers

	1989	1990	1991	1992	1993
Less than 1 month	1 349 (86%)	1 307 (87%)	1 507 (89%)	1 387 (84%)	1 146 (81%)
1 to 2 months	131 (8%)	92 (6%)	77 (5%)	96 (6%)	78 (6%)
2 to 3 months	36 (2%)	44 (3%)	28 (1%)	46 (3%)	38 (3%)
Over 3 months	55 (4%)	52 (4%)	89 (5%)	119 (7%)	148 (10%)
	1 571 (100%)	1 495 (100%)	1 701 (100%)	1 648 (100%)	1 410 (100%)

Detention of illegal entrants

	1989	1990	1991	1992	1993
Less than 2 weeks	1 696 (85%)	1 846 (85.5%)	2 453 (85%)	2 548 (84%)	2 945 (83%)
2 weeks to 1 month	132 (7%)	121 (5.5%)	145 (5%)	143 (5%)	142 (4%)
1 to 2 months	72 (3.5%)	86 (4%)	91 (3%)	97 (3%)	125 (3.5%)
2 to 3 months	32 (2%)	44 (2%)	54 (2%)	64 (2%)	89 (2.5%)
Over 3 months	57 (2.5%)	59 (3%)	134 (5%)	166 (6%)	249 (7%)
	1 989 (100%)	2 156 (100%)	2 877 (100%)	3 018 (100%)	3 550 (100%)

Compensation for unlawful detention

193. Claims for compensation are made to the Secretary of State where a person has been held in prison for a longer period than was permitted by a lawful warrant or where detention was in the absence of continuing lawful authority; most cases are settled and compensation paid out of court.

Article 10

194. The Government continues to believe that a custodial sentence is appropriate for the most serious offenders and for those who pose a serious threat to the public. In England and Wales, the Criminal Justice Act 1991 introduced a statutory framework for sentencing, which makes clear that a custodial sentence should be reserved for cases where the offence is so serious that no other sentence is appropriate or where the public requires protection from a sexual or violent offender. In other cases, a community sentence (such as a probation order or a community service order), a financial penalty or another form of disposal will be appropriate. If a custodial or community sentence is imposed, the Government recognises the importance of helping to prevent reoffending and of assisting in the rehabilitation of the offender within a positive and human prison regime or within the community.

195. In the case of a custodial sentence, the loss of freedom and the separation from family and friends which the prisoner suffers constitutes the punishment imposed by imprisonment. The Government recognizes that, while serving a custodial sentence should not be a pleasant experience, it should not impose degrading or inhumane conditions. A balance must be struck between austere surroundings and decent conditions, which involves providing living accommodation and facilities which are secure, hygienic and adequate for their purpose. Prisoners should spend their time in purposeful and demanding ways relevant to their needs and to the reason why they are in prison. Prison

programmes should therefore ensure that prisoners contribute to the life and upkeep of the prison; improve their educational level and technical skills; and are challenged about their criminal behaviour. Reference has been made under this article to developments intended to meet these objectives.

Prison population

196. In 1993 the United Kingdom had an average prison population of about 52,100 or 90 per 100,000 inhabitants.

197. In 1993 England and Wales had an average prison population of about 44,570 (or 87 per 100,000 inhabitants), a fall of about 4,000 since 1989. In 1993 Scotland had an average prison population of about 5,640 (or 110 per 100,000 inhabitants), an increase of about 650 since 1989. In Northern Ireland, the average prison population in 1993 was about 1,910 (or 118 per 100,000 inhabitants), an increase of about 100 since 1989.

198. The average remand population in England and Wales rose slightly between 1989 and 1993 - by about 200, or almost 2 per cent, to 10,670. A number of initiatives, typically involving bail hostels and bail information schemes (which provide independently verified information on the personal circumstances of applicants for bail), have been taken to ensure that the courts have the necessary wide range of facilities and information available to ensure that they remand in custody only when necessary.

199. The remand population in Scotland increased by 72 or 8 per cent between 1992 and 1993 and followed a rise of 14 per cent between 1991 and 1992. The Government is currently funding pilot schemes to assist the courts in bail decisions. The schemes are aimed at providing the courts with information on supervision and suitable accommodation for applicants for bail, thereby increasing the use of bail for those who might otherwise be remanded in custody. After 1996 the effectiveness of the schemes will be evaluated.

200. In Northern Ireland, the average remand population in 1993 was 431, an increase of 4 per cent on 1992, and followed a rise of 18 per cent between 1991 and 1992.

Prison conditions

201. As set out in paragraphs 164 to 166 of the third periodic report and paragraphs 42 to 44 of the supplementary report, the Government is committed to providing decent conditions for prisoners and eliminating overcrowding. The largest prison building programme in England and Wales since Victorian times has been completed with 21 new prisons having opened since 1985. The final prison in the current programme, at Doncaster, opened in June 1994 bringing the number of new places provided since 1985 to a total of 11,285, at a cost of over £1,200 million. A further 8,000 places have been provided at existing establishments since 1979.

202. In addition, the Government announced last year that a further six new prisons were to be built and that the design, construction, management and potential financing of future new prisons would be contracted out to the private sector. Sites at Fazakerley in Merseyside and at Bridgend in

South Wales have been identified for the first two prisons. It is expected that construction work on these sites will begin in 1995-1996 and that they will open in 1997-1998 providing some 1,200 new prison places. Work is currently in progress to identify suitable sites for the other four prisons but it is too early to indicate a timetable for their construction and opening. A programme of building new houseblocks at existing prisons is also under way and will provide a further 2,000 places by 1996-1997.

203. As a consequence of the building programme, at the end of March 1994, 82 per cent of prisoners in England and Wales were being held in uncrowded conditions. In 1987-1988, over 5,000 prisoners were being held three to a cell designed for one person; this practice has now been eliminated, while the number of prisoners held two to a cell designed for one person has been halved from over 17,800 in January 1987 to some 8,500 in March 1994.

204. Refurbishment and modernization of existing establishments continues to be an important part of the building programme, providing enhanced security and control measures and upgraded facilities, including access to sanitation at all times. At the end of May 1994, 91 per cent of prisoners had access to sanitation at all times; it is intended that such access should be available to 95 per cent of prisoners by the end of March 1995 and to all prisoners by February 1996. In 1994-1995, the Prison Service in England and Wales will be completing the modernization of 12 wings at older, Victorian prisons and beginning work at another 8 establishments.

205. In September 1991, the Government published a White Paper, "Custody, Care and Justice" (Cm 1647), following Lord Woolf's report into the prison disturbances which took place in England and Wales in 1990. The White Paper, a copy of which is at annex H, sets out a programme of work for the Prison Service into the next century. The aim continues to be to provide a prison system with more effective measures for security and control; more constructive relationships between prisoners and staff; and more stimulating and purposeful programmes for prisoners.

206. In line with a Government commitment in the White Paper, the Prison Service introduced in April 1994 a code of operating standards, which covers areas such as food, clothing, health, discipline, regimes, accommodation, security and preparation for release. The code represents the Prison Service's national standards, towards which all prisons will, over time, be required to work.

207. In Scotland, a new 60-place houseblock, or prisoner accommodation hall, is to be constructed at Greenock during 1995 and new houseblocks are planned at Dumfries and Polmont. In April 1994, 56 per cent of prison places had access to various forms of night sanitation. The programme to provide access to sanitation at all times is continuing, with major works currently in progress at Polmont Young Offenders Institution and at Perth and further work is scheduled to start later in 1994 at Edinburgh and Dumfries.

208. A prison survey was undertaken in Scotland in 1990-1991 consulting prisoners on their views on aspects of prison management, facilities, conditions and relationships; the survey was repeated in 1993-1994 and

the results compared with a view to identifying changes occurring in establishments. An information pack for prisoners will be available for distribution in the autumn of 1994; it will be suitable for all categories of prisoner and will provide useful information on issues concerning prisoners' rights and welfare.

209. In Northern Ireland, the prison estate is small: there are four prisons and one young offenders centre. With the exception of Belfast prison, no part of the prison estate is more than 20 years old. A major refurbishment of Belfast prison is currently in progress, which will improve conditions for prisoners and staff and provide prisoners with integral sanitation and with gym and library facilities on each wing; a new visits complex will also be added. The work is expected to be completed by 2003, though benefits will be seen well before then. The Northern Ireland Prison Service is taking steps to provide access to sanitation at all times in all establishments.

Prison inspection

210. The independent Inspectorate of Prisons in England and Wales, of which the Chief Inspector is Judge Stephen Tumim, continues to carry out inspections of individual Prison Service establishments and to report to the Government on the treatment of and conditions for prisoners; the report of each inspection is published. The Inspectorate also carries out reviews of general aspects of the work of the Prison Service and investigates particular incidents at the Government's request. In addition, the Annual Report of the Inspectorate is laid before Parliament.

211. The Inspectorate of Prisons in England and Wales is also invited to conduct inspections in Northern Ireland, while, in Scotland, there is a separate, smaller Prisons Inspectorate with its own Chief Inspector. Its duties are similar to those of the Inspectorate in England and Wales: cyclical inspections of and reports on individual establishments, studies of general aspects of the work of the Scottish Prison Service and any particular investigations which the Government may request. In addition, it is responsible for the inspection every three years of the police cells used in isolated areas to hold prisoners awaiting trial locally or transfer to a main prison.

Parole

212. Paragraphs 32 and 33 of the supplementary report to the third periodic report set out the new parole system in England and Wales contained in the Criminal Justice Act 1991. The relevant provisions came into force on 1 October 1992.

213. As mentioned in paragraph 33 of the supplementary report, for those sentenced after that date to four years or more but less than seven years the Parole Board takes the decision on parole. It offers a recommendation on those sentenced to seven years or more, but the final decision on these cases is taken by the Secretary of State. A significant feature of the new arrangements is that all prisoners with a parole review taking place on or after 1 October 1994 will receive a copy of their parole dossier and be given an opportunity to make representations on it. They will be interviewed by a

member of the Parole Board and be given reasons for their parole decision. Such openness in the parole system is a new development as far as determinate sentence prisoners are concerned.

214. A further new development is that the 1991 Act enables the Secretary of State, at any time in the sentence, to release a prisoner on licence if he is satisfied that exceptional circumstances exist which justify the prisoner's release on compassionate grounds. A number of prisoners have been released under these arrangements.

215. Paragraph 136 of the third periodic report referred to the report on the parole system in Scotland of the committee established under the chairmanship of Lord Kincraig. Following consideration of that report, the Prisoners and Criminal Proceedings (Scotland) Act 1993, which came into force on 1 October 1993, effected similar changes to the parole system in Scotland to those made to the system in England and Wales by the Criminal Justice Act 1991. Given the different legal system, the parole system in Scotland under the 1993 Act differs, however, in certain respects. In particular:

(a) Those sentenced to less than four years are released unconditionally after serving half their sentence, unless the court makes a supervised release order requiring the person to be under the supervision of a social worker for a period not exceeding half the sentence or 12 months from the date of release, whichever is the greater; and

(b) Those sentenced to four years or more who are not granted early release on parole are released on licence after serving two thirds of their sentence and are subject to the supervision of a social worker until the expiry date of the sentence.

216. Paragraphs 134, 169 and 170 of the third periodic report described the arrangements that apply in Northern Ireland for remission and for unescorted home leave.

The discretionary life sentence system

217. A discretionary life sentence may be awarded in England and Wales for a violent or sexual offence the penalty for which is not fixed by law (e.g. rape, terrorist offences, manslaughter and arson). The sentence comprises two elements: (i) the punitive element; and (ii) the risk element, during which the prisoner may be detained while he or she continues to present a risk to the public.

218. Section 34 of the Criminal Justice Act 1991 empowers the Parole Board to direct the release of a discretionary life sentence prisoner who has served the punitive element of the sentence (known in the Act as "the relevant part"); the Board may not direct release unless it is satisfied that it is "no longer necessary for the protection of the public that the prisoner should be confined". This provision was introduced following the judgment of the European Court of Human Rights in the cases of Weeks and Thynne, Wilson and Gunnell, which found that the previous procedures for the release of discretionary life sentence prisoners were in breach of article 5 (4) of the European Convention on Human Rights. The cases established that the

lawfulness of a discretionary life sentence prisoner's continued detention after the expiry of the punitive element of the sentence should be considered by a body that was independent of the executive and had power to release the prisoner.

219. Section 34 arrangements apply to:

(a) Existing discretionary life sentence prisoners where the Home Secretary has certified his opinion under the transitional provisions to the Act that the sentencing court would have applied section 34 had it been available at the time of sentence; and

(b) Those given a discretionary life sentence on or after 1 October 1992 where the sentencing court orders that section 34 should apply. The relevant part is set in open court and may be appealed by either side.

220. Reviews are conducted in prison by three-member panels of the Parole Board called Discretionary Lifer Panels (DLPs). A DLP has the power to direct the Home Secretary to release a prisoner where it is satisfied that it is no longer necessary for the protection of the public for the prisoner to be confined.

221. In addition to deciding whether or not to direct a prisoner's release, DLPs are invited to make recommendations, as appropriate, about transfer to less secure conditions, placement on the pre-release employment scheme and the timing of the next DLP review. While a direction to release is binding on the Home Secretary, recommendations are not.

222. A prisoner whose case is being considered by a DLP is entitled:

(a) To see, in advance of the hearing, the dossier of papers which is submitted as evidence to the Panel, a right established by the Court of Appeal in the case of Wilson. (There is scope to withhold sensitive papers from prisoners where disclosure might harm them or third parties);

(b) To comment on that evidence in advance of the hearing and to make any other written representations;

(c) To attend the hearing and to be legally represented. Legal aid is available where appropriate;

(d) To call and question witnesses, including officers who have written reports for the review; and

(e) To receive the Panel's decision and the reasons for it within seven days of the hearing. Decisions are communicated in writing.

223. Where a DLP does not direct release, a prisoner is entitled to a further DLP review under section 34 every two years. A DLP review may be held earlier if the Secretary of State so decides (whether recommended by the DLP or not).

224. The Prisoners and Criminal Proceedings (Scotland) Act 1993 brought in similar arrangements in Scotland. The powers of the Parole Board under section 2 of the 1993 Act are exercised by a Discretionary Lifer Tribunal, which effectively functions in the same way as the DLPs in England and Wales. In Northern Ireland, discretionary and mandatory life sentence prisoners are treated in the same way, as described in paragraph 229, below; at present, there are only six prisoners in Northern Ireland serving a discretionary life sentence.

The system for mandatory life sentence prisoners

225. Life imprisonment is the mandatory sentence for murder in England and Wales. The release of mandatory life sentence prisoners can only be authorized by the Home Secretary. Under section 35 of the Criminal Justice Act 1991, he may order release only if he is recommended to do so by the Parole Board and after consulting the Lord Chief Justice and, if available, the trial judge. The Home Secretary looks to the Parole Board primarily for advice on risk and to the judiciary for advice on the time to be served (the "tariff" period) to satisfy the requirements of retribution and deterrence. The Home Secretary is not bound to accept a recommendation for release made by the Parole Board nor is he obliged to accept the judicial view on tariff. In addition to risk and tariff, the Home Secretary has regard to the public acceptability of early release.

226. Following the judgement of the House of Lords in the case of Smart, Pegg, Doody and Pierson, new procedures which incorporate greater openness in the tariff-setting arrangements have been introduced. The gist of the judicial recommendation on tariff is now disclosed to the prisoner. The tariff period set by the Home Secretary is also disclosed. If the Home Secretary sets a tariff which differs from the judicial recommendation, he is required to give reasons.

227. In addition, the dossier of papers which the Parole Board considers before making a recommendation is now disclosed to the prisoner and he or she is allowed to make representations on the contents of the dossier. The prisoner is also given the reasons for the Parole Board recommendation and, where the Home Secretary does not accept a recommendation, the reasons for that decision.

228. In Scotland, life imprisonment is also the mandatory sentence for murder. As in England and Wales, the Secretary of State may only release mandatory life sentence prisoners on the recommendation of the Parole Board and after consultation with the judiciary. There is, however, no tariff-setting procedure in Scotland. The Secretary of State does not take any view from the outset as to what period will be required to satisfy the requirements of retribution and deterrence but considers both aspects, together with public risk, at every stage of the sentence. When the prisoner has served four years (two if sentenced as a child), the Secretary of State refers the case to a non-statutory body - the Preliminary Review Committee for Life Sentence Prisoners (the PRC) - for advice as to when the case should first be reviewed within the statutory procedures. From 1994, prisoners being considered by the PRC have had access to their dossiers and the chance to make written representations.

229. In Northern Ireland, the cases of discretionary and mandatory life sentence prisoners are reviewed at regular intervals by prison staff, officials at the Prison Service headquarters and the non-statutory Life Sentence Review Board. When the Board is satisfied that a prisoner fulfils the criteria for release, which are published in a booklet made available to prisoners, the views of the judiciary are sought and a recommendation is made to the Secretary of State. After a provisional release date has been set and before the Secretary of State will sign the release licence, the prisoner must successfully complete a nine-month pre-release programme.

Sentence planning

230. The Prison Service has introduced sentence planning for all prisoners in England and Wales serving sentences of imprisonment of 12 months and over, including life sentence prisoners. Sentence planning enables the Prison Service to put its Statement of Purpose into practice and, in particular, the duty to look after prisoners with humanity and to help them lead law-abiding and useful lives in custody and after release.

231. The purposes of sentence planning are:

(a) To ensure that the best use is made of a prisoner's time in custody;

(b) To provide opportunities to review a prisoner's progress throughout the sentence;

(c) To act as a focal point for staff/prisoner relationships;

(d) To inform the parole process for prisoners eligible for early release on parole;

(e) To coordinate the time spent in custody with any period of compulsory supervision after release; and

(f) To assist governors in targeting their resources towards meeting the identified needs of prisoners more effectively and to reduce the risk of their reoffending.

232. In outlining their proposed progression through the sentence and the use to be made of their time in custody, the sentence plan aims to maximize the possibilities for the rehabilitation of prisoners by encouraging them to address the reasons for, and the consequences of, their offending behaviour and by giving them planned experience of work, training and education to help prepare them for release. The sentence plan is disclosed to the prisoner and should be discussed with the prisoner at regular intervals in the course of the sentence; it is reviewed at least annually and more often if necessary.

233. Consideration is being given to extending sentence planning to all sentenced prisoners in England and Wales in 1995 following a review of sentence planning in 1994.

234. The Scottish Prison Service introduced a similar sentence planning scheme in July 1992 for all prisoners serving sentences of imprisonment of two years and over, including life sentence prisoners.

235. The Northern Ireland Prison Service is committed to ensuring that life in prison offers prisoners opportunities to develop their physical and mental well-being and to prepare them for release and, by doing so, to reduce the likelihood that they will reoffend; the provision of a sentence plan is one aspect of this commitment. The Northern Ireland Prison Service is currently developing a system of sentence planning, which will be launched later this year. Initially, it will be directed at determinate sentence prisoners, but the aim is to extend it during 1995 to all prisoners serving a sentence of imprisonment of six months or more. The aims of sentence planning are the same in Northern Ireland as elsewhere: to encourage prisoners to make constructive use of their time in prison and to ensure that they have the facilities to do so.

Throughcare

236. The term "throughcare" embraces all the assistance given to offenders and their families by the Prison Service, the probation service and outside agencies and ties in with all the training, education and work experience they are given. It is directed at equipping them to fit back into society, to get a job and home and to cope with life without reoffending. It also includes all the support and help which is given to unconvicted prisoners and their families by those services and agencies. It is a process which, for convicted prisoners, begins at the point of sentence, continues through the sentence of imprisonment and ends when the licence is complete. For unconvicted prisoners, the throughcare process starts as soon as they are received into custody.

237. The throughcare of offenders in England and Wales is a responsibility shared by Prison Service staff, probation officers seconded to the prison establishment and those responsible for supervision in the community, voluntary organizations and the offender. Planning for safe release begins at the start of the offender's sentence. Risk assessment and confronting offending behaviour are essential elements of this process and are the joint responsibility of the Prison Service and the probation service. As part of this work, some establishments are running anger management and sex offender treatment programmes and a cognitive skills programme is being assessed.

238. The 1991 White Paper, "Custody, Care and Justice", emphasized the need for the Prison Service and the probation service to work closely together. This was reinforced by the early release provisions of the Criminal Justice Act 1991, which involved new supervision requirements for offenders. Under the 1991 Act, all adult offenders sentenced to 12 months' imprisonment and over and all young offenders are supervised on their release from custody by the probation service (or, in the case of certain young offenders, by local authority social services departments). These provisions came into effect on 1 October 1992 and it therefore became important to raise the profile of throughcare in prisons and the probation service and to make its delivery more effective.

239. During the last three years the Prison Service has been working closely with the Association of Chief Officers of Probation (ACOP) towards this end and has been putting into place structures to reinforce throughcare. These so far include:

(a) The Prison Service corporate three-year plans, for 1993-1996 and 1994-1997, which set out an ambitious programme for developing throughcare work building on the White Paper;

(b) The extension of sentence planning;

(c) The introduction of pre-discharge, discharge and feedback reports. Under this system the Prison Service provides clear and relevant information about the activities and achievements of inmates during their sentence and, critically, when approaching release. At the end of the supervision period, the supervising service can provide feedback to the prison or young offender institution to help it assess the effectiveness of the throughcare arrangements and any training and assistance it has provided to the offender;

(d) The adoption by the probation service of National Standards for the Supervision of Offenders Before and After Release from Custody;

(e) The enhancement of the role of the prison officer through the expansion of the Personal Officer Scheme;

(f) The introduction of written agreements between chief probation officers and governors; and

(g) The National Throughcare Framework Document, which brings all these elements together in a cohesive and comprehensive framework.

240. The National Framework for the Throughcare of Offenders in Custody to the Completion of Supervision in the Community (known as the National Throughcare Framework Document) was issued in December 1993 to the Prison Service and the probation service; a copy is attached at annex I. Its purpose is to bring together all the elements of the work which the Prison Service, the Home Office and ACOP have been doing to raise the profile of throughcare work in prisons and the probation service and make its delivery more effective. In particular, it clarifies the roles and responsibilities of prison and probation staff and emphasizes the need for a close working relationship between prison officers, seconded probation staff and supervising probation officers.

241. In Scotland, the throughcare of offenders is a responsibility shared by Prison Service staff and social workers. National Objectives and Standards for Social Work Services in the Criminal Justice System were published in February 1991 and came into effect in April 1991. The throughcare section sets out in detail:

(a) The standard required of reports on parole candidates by establishment social workers and by home social workers;

(b) The work to be carried out prior to release; and

(c) The standards of supervision to be observed on release and the procedures for routine reporting and enforcement.

These throughcare standards are currently under review by a national consultation group.

242. In Northern Ireland, programmes to address prisoners' offending behaviour are available, including sex offender programmes. From early 1995, further programmes to address offending behaviour, based on the cognitive-behavioural model, will be offered. At present, there is no power to make supervision on release mandatory so the continuance of programmes following release is on a voluntary basis.

243. Under the new sentence planning arrangements in Northern Ireland, greater information will be made available to probation officers on the use made by a prisoner of his time in prison. The creation of links with support groups in the community will be developed during the term of imprisonment to ease the prisoner's transition into life outside prison. For long-term prisoners, a resettlement unit will be established at Maghaberry prison in 1995 to offer programmes and pre-release training. The Northern Ireland Prison Service has begun discussions with the Probation Board for Northern Ireland with the aim of developing a framework agreement that sets out responsibilities regarding throughcare.

Work, education and training

244. Learning to work and to stick to regular hours of attendance is of major importance to many prisoners in helping them to restructure their lives. Productive work is therefore at the core of the regime for sentenced adult prisoners; it gives them the opportunity to acquire the skills, knowledge, attitudes and habits which will help them to find jobs and to live law-abiding lives on their release from prison. Suitable work is also provided for young offenders and, as far as possible, for remand prisoners.

245. Prisoners of all abilities work in a wide variety of industrial trades - clothing and textiles workshops, laundries, engineering and woodwork, printing and binding, footwear and leatherwork - or on arable land, with livestock or in horticulture. They are supervised by skilled instructional staff. In England and Wales, in 1992-1993, there were 6,435 employment places in workshops and 2,000 in farms and gardens; the value of the goods and services produced is around £55 million a year. To improve the quality, range and cost-effectiveness of the work provided, schemes are being developed in which private sector employers will become directly involved in the employment of prisoners.

246. All prisons and young offender institutions in the United Kingdom also provide education and vocational training opportunities for prisoners. Although education is voluntary for prisoners over the school leaving age of 16, around 47 per cent of the prison population in England and Wales, for example, including some 3,000 adult prisoners in any one week, attend either full-time or part-time classes.

247. A high proportion of prisoners have difficulty reading and writing. Consequently, much of prison education is devoted to providing fundamental literacy, numeracy and other basic social skills, without which offenders are less likely to find jobs on their release from prison. In both basic and further education prisoners are given the opportunity to acquire national qualifications. About 43 per cent of prisoners in England and Wales, for example, have no qualifications when they come into prison; the Prison Service is committed to implementing over 700 national vocational qualification schemes, which provide relevant, nationally accredited qualifications in areas including construction industry trades, catering, engineering and electronics, industrial cleaning, care, business administration, information technology and sport and recreation.

Visits and the practice of religion

248. Further to paragraph 149 of the third periodic report, every prison in England and Wales now offers prisoners the opportunity to exceed the minimum visiting entitlements set out in the Prison Rules 1964 and a number of establishments now allow special extended visits for prisoners' children. The Prison Service also gives financial support to more than 40 visitors' centres at establishments, which help to make visits easier for prisoners' families, and earlier this year a number of one-off grants were paid to prisoners' family support groups.

249. In Northern Ireland, it has long been the case that prisoners exceed the statutory minimum visiting entitlement; convicted prisoners are generally able to have weekly visits and remand prisoners three visits a week.

250. Since January 1993 cardphones have been available for prisoners' use at all Prison Service establishments in England and Wales and, in July 1993, the Scottish Prison Service extended the prisoners' payphone system to include remand prisoners. In Northern Ireland, a pilot payphone scheme is currently in operation at Magilligan prison.

251. The entitlement of prisoners in England and Wales to practise their religion is reaffirmed in the code of operating standards published in April 1994. Arrangements for prisoners to practise their religion are subject to independent oversight and inspection by the Inspectorate of Prisons. In Northern Ireland, there are no restrictions on the practice of religion other than those required by prison security.

Disciplinary matters

252. Following the publication of the Woolf Report on the prison disturbances of 1990, major changes have been made in the disciplinary system for prisoners in England and Wales, which was dealt with in paragraphs 151 to 157 of the third periodic report.

253. Boards of visitors lost their powers to adjudicate on and to punish prisoners for disciplinary offences in April 1992, following changes in the Prison Rules 1964 and the Young Offender Institution Rules 1988. As a consequence, the maximum punishments available for disciplinary offences have been sharply reduced (in removing boards' powers the lesser powers of

governors were left unaltered). An example is the punishment of additional days: the maximum number for any offence which would previously have been heard by the boards was effectively reduced from 120 days to 28 days as a result of the changes.

254. A greater number of those serious offences which are also criminal are now referred to the police for possible prosecution in the courts, thereby ensuring that the individual is protected by the safeguards associated with trial in a court of law.

255. In the light of the growing rate of offending in prisons (the number of proved adjudications per 1,000 head of population increased from 191 in 1991 to 226 in 1993), the prison discipline system in England and Wales has subsequently been reviewed and further minor changes have been made. Governors' powers to impose cellular confinement as a punishment have been increased from a maximum of 3 to 14 days - this compares with a maximum of 56 days available to boards of visitors before April 1992. At the same time, an additional safeguard has been added by requiring a daily inspection by the medical officer of all prisoners undergoing cellular confinement as a punishment.

256. In Scotland, a new manual of guidance for governors on the conduct of adjudications in prisons will be available later this year; a review of Prison Standing Orders will be completed by the spring of 1995. In Northern Ireland, the disciplinary procedures in prisons and the young offenders centre were examined during the recent review of the Prison Rules and a number of changes are currently under consideration.

Prisoners in police cells

257. As a result of a sharp increase in the prison population in England and Wales at the beginning of 1994, some local prisons in the north of England were not always able to accept prisoners committed by the courts from the police. Some prisoners (mostly on remand) were held in police cells pending their admission to prison.

258. Section 6 of the Imprisonment (Temporary Provisions) Act 1980 provides that prisoners may be held in this way where it is not immediately practicable to secure their admission to a Prison Service establishment. This is designed to provide a measure of last resort at times of exceptional pressure: police cells are not regarded as an alternative source of accommodation for those who ought to be in prison custody. Rigorous measures have been taken to avoid the use of police cells for such prisoners, including:

(a) The transfer of sentenced prisoners as quickly as possible from the local prison or remand centre where they are held before conviction and sentencing to the prison or young offender institution where they will serve their sentence;

(b) Changes in the type of prisoner taken by some prison establishments so as better to fit current needs;

(c) Adjustments in the courts covered by local prisons and remand centres so as to equalize population pressures as much as possible; and

(d) Some rescheduling of planned building and maintenance work so as to keep prisoner accommodation in use and bring some modernized and refurbished accommodation back into use ahead of schedule.

259. The number of prisoners in police cells who ought to have been in prison custody peaked at 540 in mid-March 1994 and had reduced to 80 in mid-July.

Mentally disordered offenders

260. The Government is committed to ensuring that mentally disordered people who commit offences have the earliest possible access to effective care and treatment; that their illness or disorder and their treatment needs are taken fully into account when decisions are made about prosecution and about any disposal in the event of conviction; and that they are not remanded or sentenced inappropriately to prison.

261. In 1992, the Government published the final report of a national, multidisciplinary review of services for mentally disordered offenders (known as the Reed report) setting out a comprehensive agenda for the coming years. Cooperation between criminal justice, health and social services agencies has been recognized as an essential requirement for effective work with mentally disordered offenders and has been promoted through a variety of central and local initiatives. There is a growing number of local, inter-agency schemes focused specifically on this group of people.

262. In prisons, medical officers are encouraged to identify mentally disordered prisoners, either on remand or sentenced, who need hospital treatment and to recommend their transfer. Increasing cooperation between prison medical officers, the Home Office and National Health Service psychiatric facilities has resulted in a considerable increase in the number of prisoners transferred in England and Wales over recent years - from fewer than 100 in 1985 to 755 in 1993.

263. In Northern Ireland, 59 mentally disordered offenders transferred from prison to hospital between 1985 and 1993. Because there are no high security hospital units in Northern Ireland, mentally disordered offenders who require such facilities are transferred to Great Britain; nine such offenders were transferred between 1985 and 1993.

Young offenders

264. Paragraph 139 of the third periodic report described the unified custodial sentence for young offenders in England and Wales (of detention in a young offender institution) introduced by the Criminal Justice Act 1988.

265. The Criminal Justice Act 1991 abolished this sentence for 14-year-old boys. This sentence is now available for male and female offenders aged between 15 and under 21. The Act also extended to 17 year olds the maximum length of 12 months for this sentence, which previously applied only to

children aged under 17. The provision in the Children and Young Persons Act 1933 for children who commit especially grave offences to be detained for longer periods was also extended to 17 year olds.

266. The 1991 Act gave the courts the power, which has not yet been implemented, to remand to secure accommodation a juvenile of either sex aged 15-16 charged with a grave crime or with a history of absconding from open local authority accommodation and then committing offences. The Criminal Justice and Public Order Bill, which is currently before Parliament, would extend this power to juveniles aged 12-14. The power will be implemented as soon as sufficient secure accommodation has been provided by local authority social services departments.

267. In order that they might have the powers to deal with young offenders who pose a danger to the public or who offend persistently, the Criminal Justice and Public Order Bill would extend the range of sentences available to the courts in England and Wales:

(a) The maximum sentence of detention in a young offender institution for 15-17 year olds would be increased from 12 months to 2 years;

(b) A new sentence would be introduced for 12-14 year old persistent offenders - the Secure Training Order. The Order would last for up to two years and offenders would serve half their sentence in detention, either in a new Secure Training Centre run by private contractors or in local authority secure accommodation; and

(c) Section 53 of the Children and Young Persons Act 1933 would be extended. For grave crimes, 14-17 year olds (10 year olds and above in the case of murder or manslaughter) can currently receive terms of detention under section 53 of the 1933 Act as long as those imposed on adults for the same offences. The Bill would expand the scope of section 53 so that 10-13 year olds, as well as 14-17 year olds, could receive a long term of detention for a crime for which an adult could receive a sentence of 14 years or more. It would also allow 10-15 year olds, as well as 16-17 year olds, to be sentenced to a long term of detention for the offence of indecent assault on a woman. Most children serve sentences under section 53 of the 1933 Act in secure accommodation in the child-care system.

268. The Government continues to support in principle the requirement under articles 10 (2) (b) and 10 (3) of the Covenant that detained juveniles should be separated from adults. The Prison Service in England and Wales also recognizes a third age group: young adults aged 18-20. As far as sentenced male offenders are concerned, it is in general the policy to accommodate all three groups separately, but there are some circumstances where the mixing of offenders in these groups is seen as appropriate and in the interests of the juveniles themselves, for example, to allow access to particular facilities. Thus, 15-17 year olds awaiting trial or sentence are regularly held together with 18-20 year olds in the same situation, in order to provide them with a reasonably large social group, and some mixing between these age groups under supervision also occurs between sentenced boys and young men in young offender institutions. Boys aged 15-17 are only allowed to mix with men aged 21 and

over in very limited circumstances and under strict supervision. These restrictions do not apply to detained girls, who regularly mix with young and adult women in custody, and appear to benefit as a result. (However, it should be remembered that unconvicted girls cannot be remanded to prison custody below the age of 17. The number of juvenile girls in custody is very small).

269. The provision of a unified custodial sentence for young offenders in Scotland came into effect on 1 November 1988 under the Criminal Justice Act 1988.

Secure accommodation for children

270. Further to paragraphs 143 to 148 of the third periodic report, paragraphs 38 to 40 of the supplementary report described the changes made in the legislation governing the provision and use of secure accommodation for children in England and Wales as a consequence of the Children Act 1989. That legislation is now contained in section 25 of the 1989 Act; the Children (Secure Accommodation) Regulations 1991; and the Children (Secure Accommodation) Amendment Regulations 1992.

271. A child may not be placed in secure accommodation unless the criteria contained in section 25 of the 1989 Act are met. If the criteria are met, a child may be placed in secure accommodation (in the case of those under the age of 13, only with the prior approval of the Secretary of State for Health) for no more than 72 hours, or 72 hours in any 28 day period, without the authority of a court order. A court may not authorize such an order if the child is not legally represented in court, while section 94 of the 1989 Act provides a right of appeal to the High Court against a decision to place a child in secure accommodation.

272. The maximum period that a court may authorize a child to be kept in secure accommodation is three months. If it is decided that the placement should continue beyond this period, the relevant authority or person must make a further application to the court. The order is permissive; it enables but does not oblige the relevant authority or person to continue the placement for the duration of the order. Nor does it empower the authority or person to continue the placement once the criteria under which the order was made cease to apply. For this reason, the circumstances of any child held in secure accommodation must be reviewed within one month of the start of the placement and thereafter at intervals not exceeding three months, to decide whether it is still necessary to hold that child in secure accommodation. In doing so, the views of the child and his parent or guardian must be considered.

273. All secure accommodation provided by local authorities continues to be subject to the approval of the Secretary of State for Health. Approval is usually given for up to three years at a time. Inspectors from the Department of Health visit each unit (of which there are 30 in England, providing 295 places) every year and report on the quality of care provided and the condition of the premises.

274. In Scotland, the primary legislation governing the provision and use of secure accommodation for children is contained in:

(a) Section 58A of the Social Work (Scotland) Act 1968 (as inserted by section 8 of the Health and Social Services and Social Security Adjudications Act 1983); and

(b) The Criminal Procedure (Scotland) Act 1975.

Matters are further regulated through the Secure Accommodation (Scotland) Regulations 1983 and the Social Work (Residential Establishments - Children) (Scotland) Regulations 1987.

275. As in England and Wales, the use of secure accommodation is considered a last resort in terms of child-care provision and strict criteria must be met before a child can be placed in secure accommodation. Decisions to hold children and young people in this way can be made by the courts and by children's hearings. The former is, by definition, for grave or serious offences and such admissions are governed by sections 205, 206 and 413 of the Criminal Procedure (Scotland) Act 1975. The latter refers to a decision by a children's hearing in accordance with section 44 of the Social Work (Scotland) Act 1968 that a child is in need of compulsory measures of care, being satisfied that either:

(a) He has a history of absconding, and -

 (i) He is likely to abscond unless he is kept in secure accommodation; and

 (ii) If he absconds, it is likely that his physical, mental or moral welfare will be at risk; or

(b) He is likely to injure himself or other persons unless he is kept in secure accommodation.

In exceptional circumstances, children in the care of a local authority can be held in secure accommodation on the direction of the Director of Social Work, prior to the case being referred to a children's hearing.

276. Review meetings take place at least every three months for young people in secure care with the young person and their parent(s) invited to attend and encouraged to play an active part in the review and in future planning.

277. Under the Prisoners and Criminal Proceedings (Scotland) Act 1993, children detained for less than four years under section 206 of the 1975 Act must, if not released earlier, be released on licence after serving half their sentence. Children serving a sentence of four years or more are released after serving two thirds of their sentence. Under the 1993 Act, however, the Secretary of State retains the power to release a child detained under section 206 of the 1975 Act at any time, if he has a positive recommendation from the Parole Board. On release, all children are subject to supervision by the social work department, but their early release allows them the opportunity to serve the unexpired portion of the sentence in the community.

278. All secure accommodation for children must be approved by the Secretary of State and inspection of the six units used for this purpose is undertaken by Scottish Office Inspectors every three years. Secure accommodation is a child-care resource - not part of the penal system - and therefore particular emphasis is given to the available care, education and recreation facilities to ensure that the secure regime conforms to current child-care philosophy.

279. Significant changes have occurred in the past 10 years both in terms of design standards for secure accommodation and placement patterns. Against this background and the need for education and recreation to provide positive influences on young people during their time in secure care, a review of secure accommodation in Scotland is currently under way. The review will be based on the latest information on the demand for and use of secure accommodation and on an inspection of establishments. It will assess the condition of existing provision, its use and the quality of care, including the education and recreational opportunities provided. Following the review and as outlined in the White Paper, "Scotland's Children: Proposals for Child Care Policy and Law" (Cm 2286), published in August 1993, a programme of action will be prepared designed to develop secure care of high quality to meet the future needs of security, care and education as effectively as possible.

280. In addition to this evolving strategy for secure accommodation, two innovative community-based development projects targeted at persistent young offenders are to be introduced. These are viewed as an alternative child-care resource in dealing with young people in trouble and discussions with voluntary organizations and local authorities on the precise form of the projects is currently in progress.

281. In Northern Ireland, the primary legislation governing the provision and use of secure accommodation for children is contained in the Children and Young Persons Act (Northern Ireland) 1968. As in Great Britain, the use of secure accommodation is considered as a last resort.

Immigration Detention Centres

282. Immigration Detention Centres are run on the lines of a hostel, providing freedom of movement within a secure perimeter. Detainees are provided with three meals a day within a varied menu designed to cater for their dietary and religious requirements. They also have access to a wide range of indoor and outdoor recreational facilities, a shop, telephones and facilities for washing clothes. Provision is made for detainees to see a doctor if they require medical treatment and to observe their own religion. Arrangements are in place for legal representatives, relatives and friends to contact and visit detainees daily.

Article 11

283. There has been no change in the law of the United Kingdom and, accordingly, imprisonment on the ground of inability to fulfil a contractual obligation continues not to be available as a matter of law.

Article 12

Immigration

284. As noted in paragraph 172 of the third periodic report, the United Kingdom reserves the right to continue to apply such immigration legislation governing entry into, stay in and departure from the United Kingdom as the Government may deem necessary from time to time and, accordingly, its acceptance of article 12 (4) and of the other provisions of the Covenant is subject to the provisions of any such legislation as regards persons not at the time having the right under the law of the United Kingdom to enter and remain in the United Kingdom. The United Kingdom also reserves a similar right in relation to each of its dependent territories.

Exclusion orders

285. Paragraphs 204 to 206 of the third periodic report explained the Secretary of State's power under the Prevention of Terrorism (Temporary Provisions) Act 1989 to make an order excluding a person from Great Britain, Northern Ireland or the United Kingdom if he is satisfied that that person is or has been concerned in the commission, preparation or instigation of acts of terrorism connected with the affairs of Northern Ireland, or is attempting or may attempt to enter Great Britain, Northern Ireland or the United Kingdom for such a purpose. The exclusion power continues to be used sparingly; at the end of May 1994, there were 81 orders in force.

286. Applications for judicial review of an exclusion order in the cases of R v. Secretary of State ex parte Gallagher and R v. Secretary of State ex parte Adams have led the Court of Appeal to refer certain questions of European Community law raised in the cases to the European Court of Justice for a ruling. The questions concern certain procedures ancillary to the making of exclusion orders and their compatibility with the requirements of a Directive relating to the right of free movement under article 48 of the Treaty of Rome. The Court's rulings are awaited.

Restriction orders

287. Paragraphs 46 to 55 of the supplementary report to the third periodic report described the restriction order scheme introduced by the Football Spectators Act 1989, which enables the courts to impose orders intended to prevent those convicted of offences at designated football matches from attending and causing trouble at matches outside England and Wales. There have been no changes to the scheme but, further to paragraph 48 of the supplementary report, an agreement has been reached with Sweden on "corresponding offences", that is offences committed outside England and Wales in respect of which a restriction order may be made.

288. The courts have rightly been careful in imposing restriction orders and the number of orders currently in force is down to single figures. This reflects both the strict statutory criteria which must be satisfied and a decline in violence at football matches.

Article 13

Deportation

289. Paragraphs 186 to 189 of the third periodic report described the operation of the deportation powers under the Immigration Acts 1971 and 1988. Further to paragraph 190 of that report, the number of people removed under those powers in 1989-1993 is set out below:

Removals under deportation powers					
	1989	1990	1991	1992	1993
Deportation orders enforced	652	577	733	876	850
Supervised departures	1 358	1 202	1 673	1 599	1 218

Illegal entry

290. Paragraphs 195 to 197 of the third periodic report described the operation of the powers of removal of illegal entrants under the Immigration Act 1971. Further to paragraph 197 of that report, the number of people removed under those powers in 1989-1993 is set out below:

Removals under illegal entry powers				
1989	1990	1991	1992	1993
2 457	2 392	3 255	3 631	3 791

291. Arrangements introduced in recent years by the Immigration Service for the delegation to local level of authority to approve removal in straightforward cases have ensured that the majority of illegal entry cases are dealt with speedily.

Asylum

292. The number of asylum seekers entering the United Kingdom rose sharply from some 4,000 in 1988 to a peak of 45,000 in 1991. Following the introduction of new screening procedures, the number of applicants fell to 25,000 in 1992 and 22,400 in 1993 but this was still over five times higher than the figure for 1988. The numbers put severe pressure on the existing system so that a large backlog of cases developed and applications could often take several years to resolve.

293. Of the decisions taken concerning asylum claims there has been a marked decrease in the percentage recognized as refugees as defined by the 1951 United Nations Convention relating to the Status of Refugees; the recognition rate in the early 1980s was 60 per cent but this fell to 23 per cent in 1990 and to only 3 per cent in 1992. However, although

the majority were found not to be refugees, many (44 per cent in 1992) were nevertheless allowed to remain on an exceptional basis, mainly because of delays in dealing with their applications and consequent practical difficulties in enforcing departure. There was also evidence of a significant number of fraudulent and multiple applications. Over this period, the United Kingdom continued to assess applications against the criteria set out in the 1951 Convention; these criteria were not applied in a more restrictive or stringent way. The trend underlines the fact that the majority of people coming into Europe as asylum seekers in recent years have not been refugees but economic migrants.

294. The Government responded to the situation in various ways. In particular, resources were increased significantly, procedures were streamlined and new legislation - the Asylum and Immigration Appeals Act 1993 - was brought into force in July 1993. The 1993 Act, and the accompanying changes in the Immigration Rules made under the Immigration Act 1971 (HC 725) and the Asylum Appeals (Procedure) Rules 1993, apply a balanced approach: the aim is to ensure that unfounded applications are dealt with expeditiously and with finality, while genuine refugees continue to be protected.

295. One of the main provisions introduced by the 1993 Act is an in-country right of appeal at some stage before removal, with an oral hearing before an independent Special Adjudicator, for all refused asylum applicants, regardless of their immigration status, except for those who represent a threat to national security. (Previously, certain categories of asylum seeker, including those refused leave to enter at the port of arrival, could only exercise their right of appeal from abroad). The appeal right, which represents a fundamental change in the United Kingdom's position, was introduced because of a combination of factors. Account was taken of representations received and the provision of an in-country right of appeal removed the need for cumbersome administrative practices which had developed to safeguard the position of the applicant.

296. There are strict time-limits within which any appeal should be determined. There is particularly rapid treatment of any appeal relating to a case where the Secretary of State has certified the claim to be "without foundation" - i.e. either the claim does not raise any issue as to the United Kingdom's obligations under the 1951 Convention (because the applicant arrived here via a safe third country) or it is otherwise frivolous or vexatious. All appeals in "without foundation" cases are dealt with under an accelerated appeal procedure and, where the applicant is detained and certain other criteria are met, the intention is to determine the appeal within seven days of its receipt by the Appellate Authority.

297. Other than in "without foundation" cases, an appellant whose appeal has been dismissed by an independent Special Adjudicator can apply for leave to appeal to an Immigration Appeal Tribunal. The 1993 Act also provides a right of appeal to the Court of Appeal or, in Scotland, the Court of Sessions on a point of law from a final determination of the Tribunal. An application can be made to the High Court for judicial review of a decision of the Secretary of State or the Special Adjudicator.

298. The 1993 Act allows the Secretary of State to curtail any existing leave to enter or remain in the United Kingdom when refusing an applicant's claim for asylum. This would normally lead to the institution of deportation proceedings and the service of a notice of intention to deport would give rise to a right of appeal to an independent Special Adjudicator and thereafter to the Immigration Appeal Tribunal. Judicial review could also be sought. The 1993 Act also introduced a power to fingerprint all asylum applicants for identification purposes in order to prevent multiple applications and associated fraudulent social security claims.

299. The 1993 Act also contains provisions not specifically relating to asylum seekers. For example, it withdraws appeal rights from visitors and short-term students and in respect of certain decisions where refusal is mandatory because a basic requirement of the Rules has not been met. It also includes a provision enabling the Secretary of State to introduce, by order, transit visa requirements (for any nationality) if and when it is thought appropriate.

300. Introducing the right to an appeal before removal for all those refused asylum, regardless of their immigration status, represents a considerable strengthening of the rights of asylum seekers in the United Kingdom. The 1993 Act contains further important safeguards for asylum seekers. For example, section 2 of the 1993 Act states that "Nothing in the immigration rules ... shall lay down any practice which would be contrary to the [1951] Convention". (This has the effect, so far as immigration law is concerned, of guaranteeing the supremacy of the 1951 Convention and the 1967 Protocol relating to the Status of Refugees in domestic law.) Section 6 states that "During the period beginning when a person makes a claim for asylum and ending when the Secretary of State gives him notice of the decision on the claim, he may not be removed from, or be required to leave, the United Kingdom". Schedule 2 to the 1993 Act specifically incorporates those provisions of the Immigration Act 1971 which prohibit the removal of an appellant while an appeal is pending.

301. The effects of the new legislation are being closely monitored. It will naturally take some time for the system as a whole to reach its full operational capacity. It is, however, generally recognized that the new procedures are more efficient and that initial decisions on asylum applications are being taken at an increasing rate. This, in turn, is of benefit to those who are genuine refugees.

302. There remains a central authority for deciding asylum and special cases and all applications are considered by trained caseworkers. Each case is assessed on its merits. Legal aid is available in certain circumstances and the Government funds an independent organization, the Refugee Legal Centre, which provides asylum seekers with free advice regarding their applications and, where necessary, represents them at appeal hearings.

Extradition

303. Paragraphs 200 to 203 of the third periodic report set out the United Kingdom's legislation and practice relating to extradition.

304. In May 1991, the European Convention on Extradition came into force in the United Kingdom. Other Convention countries, which now include most of those in western and central Europe, are no longer required to establish in the courts here a prima facie case against the person sought. This is intended to simplify and expedite extradition proceedings against serious criminals whose return has been requested by a country in whose system and standards of justice we, and other members of the Council of Europe, have confidence. Nevertheless, all of the other safeguards in the extradition procedure that were described in the third periodic report continue to apply.

Article 14

Time-limits in England and Wales

305. Paragraphs 207 to 210 of the third periodic report and paragraphs 56 and 57 of the supplementary report described the introduction and operation in England and Wales of statutory time-limits on the period for which a defendant may be held in custody on remand. The limits, which were extended to the whole of England and Wales in October 1991, are 56 days from first appearance to summary trial or 70 days from first appearance to committal in the magistrates' court followed by 112 days from committal to arraignment in the Crown Court. If the prosecution fails to meet these limits, a court can direct that the defendant be released on bail, although the prosecution may apply to the court for an extension if it can show good cause.

306. The average periods of custody on remand have consistently been below the limits, which seem to have had the effect of eliminating the worst delays. In 1993, the average time which a prisoner spent in custody on remand, from first appearance in the magistrates' court to arraignment in the Crown Court, was 141 days.

307. In October 1992, the Government implemented the recommendations of the Pre-Trial Issues Working Group, setting as guidelines time-limits for various stages of the trial process. These voluntary limits are more widely applicable than the statutory limits: they are not confined to cases in which the defendant is remanded in custody and, in relation to such cases, they are more demanding. For example, the time-limit for the period between first appearance and committal for a defendant in custody is 42 days rather than the 70 days prescribed by the statutory limits. The effect of these voluntary limits will be closely monitored.

Time-limits in Scotland

308. Further to paragraphs 211 and 212 of the third periodic report, in cases involving offences under the common law, to which the statutory time-limits contained in the Criminal Procedure (Scotland) Act 1975 do not apply, the case of McFadyen v. Annan established that, where the delay in prosecution has been such as to prejudice the case, the court may decide not to continue the proceedings.

Time-limits in Northern Ireland

309. Further to paragraph 213 of the third periodic report, the problem of remand delays in Northern Ireland has been aggravated by a number of factors:

(a) A higher proportion of serious, terrorist-related crime than in England and Wales and, in particular, a much higher homicide rate, at about 8 per 100,000 of the population, as opposed to 1 per 100,000 in England and Wales (1991);

(b) A number of very complex multi-defendant trials, which require intensive investigation and a great deal of court time, putting particular pressure on the availability of High Court judges, who try the most serious cases;

(c) Delays in producing pathology and forensic reports, particularly those involving biology and explosive reports;

(d) The need to retype and check thoroughly lengthy committal papers where amendments are necessary (to edit out objectionable matter), particularly in scheduled cases;

(e) Difficulties experienced in interviewing witnesses in certain areas, which delays the preparation of the crime file; and

(f) The tendency for the accused to await the counsel of his choice, thereby causing the case to be repeatedly adjourned.

310. Extensive efforts have been made to eliminate avoidable delays. In the early to mid-1980s, the Government took a number of steps to reduce delays, including a review of the organization and staffing levels of the Department of the Director of Public Prosecutions and of the relevant sections of the Royal Ulster Constabulary; the establishment of a "fast stream" to identify and take forward cases which could be brought to trial relatively quickly; the prioritization of major, complex cases by the RUC and DPP; the appointment of a presiding judge at the Belfast Crown Court (where trials of terrorist cases are generally held) to oversee the listing of cases; and the appointment of 2 additional High Court judges, 1 additional county court judge and 12 additional Queen's Counsel, significantly increasing the number of senior Counsel available for criminal cases. There was a steady reduction in 1982-1989 in the average time taken to bring cases to trial.

311. This trend was, however, reversed in 1990 and, in 1991, further measures to reduce delays were implemented, including improvements to procedures for pathology reports, the recruitment of an additional State Pathologist and a review of staffing at the Northern Ireland Forensic Science Laboratory.

312. In June 1992, an administrative time-limit scheme was introduced. The scheme set an administrative target for scheduled cases of 38 weeks from first remand to committal and 14 weeks from committal to arraignment, an overall period of 12 months. In reporting the outcome of the first year's operation of the scheme in the House of Commons in November 1993, the Secretary of State

concluded that there had been impressive improvements and extended the scope of the scheme to include non-scheduled cases in which the defendant was remanded in custody awaiting trial on indictment. Additionally, the overall time-limit was reduced to 11 months.

313. Delays after arraignment have also caused concern. The appointment in 1993 of a further High Court judge, permitting an increase in the number of judges available to deal with serious criminal cases, was intended to address this problem. Work is going on to identify further ways of reducing delays in the whole period up to the start of trial.

Compensation for wrongful conviction

314. Paragraphs 214 and 215 of the third periodic report set out the provision under the Criminal Justice Act 1988 for the payment of compensation for wrongful conviction. Compensation was paid in England and Wales in 5 cases in 1989, 2 cases in 1990, 24 cases in 1991, 21 cases in 1992 and 5 cases in 1993; the amount paid over that period, including interim awards in cases in which final payment had yet to be determined, was about £3,130,000. In the same period, compensation under the 1988 Act was paid in Scotland in one case in each of 1989, 1991 and 1993 and in Northern Ireland in three cases in 1993. In addition, payments may be made on an ex gratia basis in cases falling outside the statutory provision.

Royal Commission on Criminal Justice

315. The Royal Commission on Criminal Justice was set up in June 1991 to examine the effectiveness of the criminal justice system in England and Wales in securing the conviction of those guilty of criminal offences and the acquittal of those who are innocent. It completed its work and issued its report (Cm 2263) in July 1993, a copy of which is attached at annex J. It made 352 recommendations covering the investigation and prosecution of offences, the rules of evidence, the conduct of trials and pre-trial procedures, forensic science evidence and provisions for appeals against conviction and for the further review of convictions after normal appeal rights have been exhausted. The Government has issued an interim response to the report, which confirms that it has accepted in principle 128 recommendations, in whole or in part, and is still considering a further 165 recommendations addressed to it.

316. The recommendations accepted so far include the proposal to establish an independent Criminal Cases Review Authority, which would take over the Home Secretary's responsibility for examining alleged miscarriages of justice and deciding whether they should be referred to the Court of Appeal. In March 1994, the Government issued a consultation document, a copy of which is attached at annex K, on the practical arrangements for setting up this Authority and on changes proposed by the Royal Commission in the powers of the Court of Appeal. The Government is firmly committed to bringing forward the necessary legislation as quickly as possible.

317. The other recommendations accepted so far include:

(a) Improvements in police training, in procedures for identification, in the supervision of investigations, in custody in police stations, in access to legal advice and in police disciplinary procedures;

(b) New powers for the police to take samples for DNA analysis from persons under arrest;

(c) Improvements in the treatment of victims in the criminal justice system; and

(d) Removing the automatic requirement for judges to warn juries about the uncorroborated evidence both of complainants in cases involving sexual offences and of accomplices.

318. A majority of the Royal Commission supported retaining the "right of silence" in England and Wales in its current form, but a minority recommended allowing adverse comment on an accused person's silence when questioned by the police.

319. While the remit of the Royal Commission did not extend to other parts of the United Kingdom, the Secretary of State for Scotland undertook to consider those of the Commission's recommendations that were of relevance in the Scottish context. The outcome of that consideration, which included a wide-ranging consultation exercise, was contained in the White Paper, "Firm and Fair-Improving the Delivery of Justice in Scotland" (Cm 2600), which was published in June 1994 and a copy of which is at annex L. The Government has also been considering the relevance of the Commission's report to Northern Ireland. The Secretary of State for Northern Ireland has already accepted that the investigation of alleged miscarriages of justice should no longer rest with him and a consultation document has been issued outlining the alternatives; the Government will issue its response on other issues in due course.

Right of silence

320. Under the law in each part of the United Kingdom any person suspected or accused of a criminal offence has a right to remain silent when being questioned by the police, when being charged and when appearing before a court for trial. The burden of proof of guilt lies firmly with the prosecution in line with the principle that a person is presumed innocent until his guilt has been proved beyond reasonable doubt.

321. As described in paragraph 216 of the third periodic report, the Criminal Evidence (Northern Ireland) Order 1988 enables courts in Northern Ireland to draw what inferences appear proper from the fact that an accused person has remained silent in any of the situations specified in the Order. The Criminal Justice and Public Order Bill, which is currently before Parliament, would introduce very similar provisions in England and Wales. Several minor amendments made in those provisions as the Bill has proceeded through Parliament are reflected in amendments that the Bill would also make in the Northern Ireland Order.

322. The essential effect of these provisions is to change the way in which an accused person's choice to remain silent may be taken into consideration by courts in England and Wales. Until now, it has not as a rule been lawful to make adverse comment at a person's trial about the fact that the defendant has not answered questions asked by the police or has failed to give evidence on his own behalf. But under the Bill now before Parliament, courts in England and Wales would be allowed to take into account the silence, in the circumstances described below, of an accused person, alongside other evidence, when determining innocence or guilt. In Scotland, section 20A of the Criminal Procedure (Scotland) Act 1975 allows comment to be made at a person's trial if he advances a defence which he failed to disclose under previous judicial examination and, in certain circumstances, if he remains silent at trial; the Government is considering whether to make changes to the law in Scotland.

323. Under the legislation which applies in Northern Ireland and is proposed for England and Wales, a court or jury may draw such inferences as may appear proper from:

(a) A suspect's failure to mention a fact when questioned under caution or charged, if he subsequently relies on that fact in defence and if he could reasonably have been expected to mention the fact when so questioned or charged. (This provision is intended to help prevent an "ambush" defence);

(b) The failure of the accused to give evidence at trial on his own behalf, where the prosecution has established that there is a case to answer. The court must satisfy itself that the accused is aware that he has the opportunity to give evidence and that the court or jury may draw inferences from a failure to do so; the defendant is not, however, under any compulsion to give evidence. (This provision does not apply to children or to defendants whose physical or mental condition makes it undesirable for them to give evidence);

(c) The failure or refusal of the accused to account for objects, substances or marks found on or about his person or at the place where he was arrested; and

(d) The failure or refusal of the accused to account for his presence at a particular place at the time of arrest.

324. The legislation provides that a person who remains silent in any of these circumstances cannot be convicted solely on that basis, but only if there is other evidence of guilt apart from the person's silence. The legislation explicitly states that it does not render the accused compellable to give evidence on his own behalf and that, accordingly, he shall not be guilty of contempt of court for failure to do so. The legislation does not alter the burden resting on the prosecution to prove the case against the accused beyond reasonable doubt or in any way affect the presumption of innocence. A court or jury would be able, in the circumstances described above, to take an accused person's failure to answer questions into account alongside other evidence but, if they decided that the prosecution had not proved its case beyond reasonable doubt, it would continue to be their duty to acquit the defendant.

325. Measures would continue to be in place to safeguard suspects, particularly those who are most vulnerable, such as the mentally ill, from pressure which may lead to false statements or confessions. Persons questioned by the police would be "cautioned" (i.e. warned) about the effect of the new legislation regarding silence. As described in paragraph 109 of the third periodic report, there are statutory safeguards on police interviews with suspects, including tape recording, access to outside contact and to legal advice at public expense and a specific requirement for the presence of an "appropriate adult" when a child or other vulnerable suspect is questioned.

326. The Government's decision to seek to amend in this way the law in England and Wales concerning the right of silence was taken on the grounds that the existing law preventing comment on the silence of an accused person was unreasonable and had given unnecessary and undeserved protection to experienced criminals. The decision was taken in the light of the experience of the operation of the similar provisions that apply in Northern Ireland.

327. Applications have been made to the European Commission of Human Rights by three individuals convicted of serious offences in Northern Ireland. The complaints are, primarily, that the provisions of the Criminal Evidence (Northern Ireland) Order 1988 led to breaches at the applicants' trials of article 6 (1) and (2) (right to a fair trial and the presumption of innocence) of the European Convention on Human Rights. The Commission has declared the first of these applications admissible. The United Kingdom Government is resisting the applications.

328. As mentioned in paragraph 318 above, the Royal Commission on Criminal Justice, which reported in July 1993, considered whether any action should be taken on previous proposals for reform of the right of silence (in particular, by the Criminal Law Revision Committee in 1972 and by a Home Office working group in May 1989) but did not reach a unanimous view. A majority of its members recommended that the existing bar against adverse inferences from silence should be maintained, but a minority recommended that adverse comment on silence should be allowed. The Government gave full consideration to the different views expressed by the members of the Royal Commission in developing the legislative provisions concerning the right of silence which are included in the Criminal Justice and Public Order Bill.

References of unduly lenient sentences to the Court of Appeal

329. Paragraph 222 of the third periodic report described the introduction in February 1989 under the Criminal Justice Act 1988 of the Attorney General's power to refer unduly lenient sentences passed in England and Wales for very serious offences to the Court of Appeal. At the end of June 1994, 121 cases had been considered by the Court of Appeal following such a reference and in 99 such cases the sentence had been increased. The Government slightly extended the power earlier this year to ensure that all the most serious sexual and violent offences are included and has outlined proposals to extend the power to include serious fraud cases.

330. Under the Prisoners and Criminal Proceedings (Scotland) Act 1993, which came into force on 1 October 1993, the Crown also has a right of appeal in Scotland against lenient sentences. The Lord Advocate (the chief public

prosecutor) may make an appeal where, in his view, the sentence imposed by a sheriff or the High Court under solemn procedure is unduly lenient. The Lord Advocate may also appeal against a sentence, imposed in solemn proceedings, on a point of law.

Retrials following acquittal

331. The Government intends to introduce legislation in England and Wales to allow for the re-trial of a person who has been acquitted, when there is subsequently a conviction for an offence of interfering with the jury in the trial in question. There are no plans to introduce a similar provision in Scotland, where the size of the jury (15) and the simple majority required to secure a conviction (8 out of 15) make it difficult to influence a jury's decision.

Civil legal aid

332. The number of people receiving help from the legal aid scheme for civil matters in England and Wales has almost doubled over the last 10 years; the number of civil legal aid certificates issued rose from 206,269 in 1983-1984 to 376,893 in 1993-1994. The cost of providing this help rose from £70.8 million in 1983-1984 to £543.9 million in 1993-1994. The Legal Aid Board, which administers civil legal aid, was asked by the Lord Chancellor to consider whether the resources for which it is responsible were being spent in the most effective way; that is, in the way which delivered a sufficient quality of service to the assisted person while giving an assurance of value for money. In response, the Board developed a franchising initiative. The aim of the scheme is to move towards simpler, more certain and speedier payment, and greater delegation of decision-making powers, in return for an assurance of the quality of service.

333. Before being granted a franchise in a certain area of work, such as matrimonial or social welfare law, an organization must be able to show that it can provide a reasonable quality of service to its clients. Firms must meet certain standards laid down by the Board, in consultation with the Law Society, including in relation to case management, training and supervision of staff and client care.

334. In Scotland, the number of people receiving civil legal aid, which is administered by the Scottish Legal Aid Board, and the cost of providing that help have also shown a marked increase in recent years. The Government is currently reviewing the provision of civil legal aid in the context of a policy and financial management review of the Scottish Legal Aid Board, the aim of which is to maximize value for money in the provision of publicly-funded legal services in Scotland.

335. In Northern Ireland, civil legal aid is administered by the Law Society as opposed to a Legal Aid Board. The number of civil legal aid certificates issued in recent years has risen from 14,585 in 1990-1991 to 16,217 in 1993-1994, with costs now amounting to £3 million a year. The Northern Ireland Courts Service, together with the Law Society, is currently reviewing the provision of civil legal aid.

Criminal legal aid

336. The Legal Aid Board administers the Police Station 24-Hour Duty Solicitor Scheme. A suspect being questioned at a police station in England and Wales is entitled to free legal advice under this scheme. This advice can either be delivered by a duty solicitor or by the suspect's own solicitor. Solicitors wishing to become duty solicitors must either attend a course or have had substantial experience in this particular field of work; suspects' own solicitors are not subject to the same controls.

337. For several years the Board had been concerned about the quality of advice given by own-solicitor representatives at police stations. This concern was echoed in research commissioned by the Royal Commission on Criminal Justice. The Board had lengthy discussions with the Law Society which resulted in the Board setting a date after which payment would not be made from the Legal Aid Fund unless the suspect's own-solicitor representative had gone through a selection procedure. The Law Society is currently working on improving standards and is developing proposals for training and accreditation. The proposals have the support of the Royal Commission on Criminal Justice.

338. Since 1988-1989 the proportion of solicitors' offices in England and Wales which receive payment for civil or criminal legal aid work has increased from 68 per cent to 82 per cent.

339. In Scotland, criminal legal aid, which is also administered by the Scottish Legal Aid Board, is generally available for the suspect's own solicitor, though, in certain circumstances, a duty solicitor may be made available. In 1993, the Government issued a consultation paper on the future of criminal legal aid in Scotland, as a result of which the June 1994 White Paper, "Firm and Fair-Improving the Delivery of Justice in Scotland", announced a number of proposals to improve the current basic entitlements. The provision of criminal legal aid will also be considered in the context of the review of the Scottish Legal Aid Board, to which paragraph 334 above, refers.

340. In Northern Ireland, criminal legal aid is administered by the Law Society; suspects being questioned at police stations receive, on request, free legal advice from a solicitor of their choice. In addition, persons granted a Criminal Aid certificate by the courts are not required to contribute to their legal expenses. The number of Criminal Aid certificates granted has increased from approximately 24,000 in 1991-1992 to 28,000 in 1993-1994, with costs now amounting to £10 million a year.

Article 15

341. Paragraph 229 of the third periodic report referred to the Government's appointment in February 1988 of the War Crimes Inquiry. The Inquiry, whose report was presented to Parliament in July 1989, concluded that legislation to give United Kingdom courts jurisdiction over murder and manslaughter violating the laws and customs of war in Germany or German-occupied territory during the Second World War by those who were now British citizens or resident in the United Kingdom would not breach article 15 of the Covenant. The Inquiry recommended that such legislation be introduced.

342. Following a debate in both Houses of Parliament on the Inquiry's report, the Government introduced the War Crimes Bill in the House of Commons in March 1990, where it was passed, in a free vote, by 273 votes to 60. It was defeated on second reading in the House of Lords in June 1990 by 207 votes to 74. The Bill was reintroduced in the Commons in identical form in March 1991, where it received a second reading, again in a free vote, by 254 votes to 88. It was defeated in the Lords in April 1991 by 131 votes to 109. The Bill was subsequently enacted in May 1991 through the operation of the Parliament Acts 1911 and 1949 and came into force on Royal Assent. The Act provides United Kingdom courts with jurisdiction over offences of murder, manslaughter and culpable homicide committed in violation of the laws and customs of war in Germany or German-occupied territory during the Second World War by persons who are now British citizens or resident in the United Kingdom, irrespective of their nationality at the material time.

343. In England and Wales, at the end of July 1994, the London Metropolitan Police War Crimes Unit, which was set up in May 1991, was investigating 26 cases against alleged Nazi war criminals. No investigation had yet reached the stage where the Crown Prosecution Service was satisfied that it had enough evidence to proceed with a prosecution.

344. In Scotland, the decision has been made that, on the basis of the information currently available regarding alleged war crimes committed by persons now resident in Scotland, there are to be no prosecutions. In Northern Ireland, no investigations or prosecutions are currently taking place.

Article 16

345. There have been no changes in the law such as adversely to affect the enjoyment of this right.

Article 17

Prisoners' correspondence

346. Further to paragraph 232 of the third periodic report, in May 1991, the Prison Service in England and Wales and, in November 1991, the Scottish Prison Service abolished the routine reading of prisoners' correspondence (with the exception of prisoners held in maximum security conditions). In October 1992 in Scotland and in January 1994 in England and Wales, further changes were made in the reading of prisoners' correspondence, which now mean that all correspondence between any prisoner and his legal adviser normally passes unopened. The governor retains the discretion to open correspondence if it is thought that the envelope contains an unauthorized article or that the privilege is being abused; this is normally done in the prisoner's presence.

Interception

347. Paragraphs 233 to 235 of the third periodic report described the provisions of the Interception of Communications Act 1985, which came into force in April 1986; there are no changes to report. In his annual report for 1993, the Interception Commissioner stated that "My clear impression is that

at every level up to and including Secretaries of State every effort is made scrupulously to comply with the Act". The Act was challenged under article 8 (right to privacy) and article 13 (right to an effective remedy) of the European Convention on Human Rights in an application to the European Commission of Human Rights; the Commission declared the application inadmissible.

Security Service

348. Paragraphs 237 to 239 of the third periodic report described the provisions of the Security Service Act 1989, which came into force in December 1989. Since then the Act has been challenged under article 8 (right to privacy) and article 13 (right to an effective remedy) of the European Convention on Human Rights in a number of applications to the European Commission of Human Rights, all of which have been declared inadmissible.

349. It is the Government's view that the 1989 Act provides a sufficient legal basis for the operations of the Security Service and that the statutory definition of the function of the Security Service as being the protection of national security, though wide, does not need further refinement. It also considers that the provision for complaints to be considered by the Tribunal and the Commissioner is an adequate remedy and that the power of the Tribunal to refer matters to the Commissioner and the latter's willingness to investigate such matters are important safeguards. As noted in paragraph 353 below, the Intelligence Services Act 1994 establishes a committee of parliamentarians to scrutinize the expenditure, administration and policy of the Security Service, the Secret Intelligence Service and the Government Communications Headquarters.

Intelligence services

350. The Intelligence Services Act 1994, which is not yet in force, is closely modelled on the Security Service Act 1989. It places the Secret Intelligence Service (SIS) and the Government Communications Headquarters (GCHQ) on a statutory basis. It identifies their functions and lays down safeguards in relation to them. It also replaces section 3 of the Security Service Act 1989, which relates to the issue of warrants. The Act will be brought into force in several months' time when the various procedures required by the legislation are in place.

351. The 1994 Act provides that SIS and GCHQ may exercise their functions only in the interests of national security or the economic well-being of the United Kingdom (in relation to the intentions or actions of persons outside the United Kingdom) or in support of the prevention or detection of serious crime. The Act further provides that SIS may only exercise its functions in relation to the actions or intentions of persons outside the United Kingdom.

352. The Act provides that no entry on or interference with property or with wireless telegraphy shall be unlawful if it is authorized by a warrant issued by the Secretary of State, and that a person who would otherwise be liable under United Kingdom law for an act done outside the United Kingdom shall not be so liable if the act is authorized by the Secretary of State. Warrants and

authorizations shall be issued or granted by the Secretary of State personally, who must be satisfied that any proposed action is necessary and that, in the case of warrants, the desired result cannot be achieved by any other means. He must also be satisfied that there are arrangements in place to safeguard the disclosure of any information obtained and, in the case of authorizations, that nothing will be done beyond what is necessary for the proper discharge of SIS's functions.

353. Like the Interception of Communications Act 1985 and the Security Service Act 1989, the Intelligence Services Act 1994 establishes a Commissioner and Tribunal. Their respective roles are to oversee the exercise by the Secretary of State of his powers to issue warrants and grant authorizations, and to investigate complaints against SIS and GCHQ. The 1994 Act also establishes a committee of Parliamentarians to scrutinize the expenditure, administration and policy of SIS, GCHQ and the Security Service.

Data protection

354. Paragraphs 240 to 242 of the third periodic report described the provision made by the Data Protection Act 1984 and the United Kingdom's ratification of the 1981 Council of Europe Convention for the Protection of Individuals with regard to the Automatic Processing of Personal Data. There have been no substantive amendments to the 1984 Act.

355. The draft data protection measures tabled by the Commission of the European Union in 1990, to which paragraph 58 of the supplementary report to the third periodic report referred, are still under negotiation within the EU. For this reason, action on the 1990 report of the interdepartmental committee, to which that paragraph also referred, continues to be suspended.

356. Since the third periodic report the Data Protection Tribunal has heard a number of appeals by data users against decisions of the Data Protection Registrar. The Tribunal's decisions have clarified the interpretation of the data protection principles set out in the 1984 Act on a number of points. Broadly, the decisions require data users to adopt an approach to the collection and use of computerized personal data which gives greater protection to the individuals concerned.

Sado-masochism

357. The House of Lords upheld a Court of Appeal ruling in 1993 in the case of R. v. Brown, involving a group of men engaged in sado-masochistic acts, that the fact that the participants consented to acts of violence which resulted in actual bodily harm did not form the basis of an acceptable defence in law. The three main applicants were convicted in 1990 of various offences, primarily assault occasioning actual bodily harm and aiding and abetting that offence. The defendants have made an application to the European Commission of Human Rights on the grounds that article 7 (retrospective punishment) and article 8 (right to privacy) of the European Convention on Human Rights were breached.

Homosexuality

358. During the passage of the Criminal Justice and Public Order Bill, which is currently before Parliament, both Houses of Parliament have accepted, on a free vote, an amendment which would reduce the age at which men may lawfully engage in homosexual acts in private from 21 to 18.

Article 18

Religious observance

359. Further to paragraph 246 of the third periodic report, in the case of Mohd Azam and others v. J.H. Walker Ltd. it was found that the refusal to allow the employees to take leave for a religious festival constituted indirect discrimination; this precedent should help to ensure that employers cater for the religious needs of their employees.

Establishment of schools

360. Paragraphs 248 and 249 of the third periodic report described how, under the Education Act 1980, a voluntary body of any religious persuasion which wishes to establish a new voluntary-aided school in England and Wales may submit a proposal to the Secretary of State for Education for consideration and how such proposals are considered by the Secretary of State.

361. The Education Act 1993 extends this provision to enable promoters to put forward their own proposals to establish a new grant-maintained school. Promoters may propose the establishment of a new grant-maintained school which would have a religious character and would provide religious education in accordance with the tenets of a particular religion or religious denomination. The Secretary of State will determine all such proposals, taking account of criteria broadly similar to those used for applications for new voluntary-aided schools. The Secretary of State will also look to see whether the Funding Agency for Schools supports the proposals.

Religious education in schools

362. Paragraphs 250 to 252 of the third periodic report set out the requirements, under the Education Reform Act 1988, in relation to religious education and daily collective worship in all State schools in England and Wales. The Education Act 1993 requires local education authorities to review their locally agreed syllabus for religious education every five years.

363. In Scotland, the Education (Scotland) Act 1980 requires education authorities to provide religious education and to ensure the practice of religious observance. The legislation does not specify what form this should take but recently issued guidance to education authorities recommends that both religious education and observance should be based on Christianity as the main religious tradition of Scotland but should also take into account the teaching and practices of other principal religions. As in England and Wales, parents have the right to withdraw their children from such education and observance if they so wish.

364. Paragraph 253 of the third periodic report noted that the requirements in Northern Ireland for religious education and collective worship in State schools were broadly similar to those in England and Wales, except that in such schools the collective worship required must not be distinctive of any particular denomination. Further to paragraph 63 of the supplementary report to the third periodic report, a core syllabus for the teaching of religious education, approved by all the main churches in Northern Ireland, was introduced for pupils aged 12 to 14 in September 1993. It is to be introduced for pupils aged 14 to 16 in September 1995 and will eventually become a requirement for all pupils of compulsory school age (ages 4 to 16) in State schools.

Article 19

Broadcasting

365. Paragraph 68 of the supplementary report to the third periodic report referred to broadcasting restrictions. These restrictions were imposed on broadcasters by virtue of notices which were then the responsibility of the Home Secretary, acting under the terms of the BBC's Royal Charter and Licence and the Broadcasting Act 1990. The United Kingdom considers that the restrictions served a useful purpose in keeping in people's minds the fact that those proscribed were no ordinary political spokesman and that their words should be treated with caution. Two cases on the restrictions were taken to the European Commission of Human Rights; the Commission declared them inadmissible. The Government kept the restrictions under review and was able to conclude, in the light of the improving situation in Northern Ireland, that the notices should be revoked. The revocation came into effect on 16 September 1994.

366. The BBC's present Royal Charter expires on 31 December 1996. Following public consultation on the BBC's future, the Government published a White Paper, "The Future of the BBC: Serving the nation, competing world-wide" (Cm 2621), in July 1994. This concluded that the BBC should continue to be the major public service broadcaster in the United Kingdom and that this should be its main role; a new Royal Charter and Agreement would govern the BBC's activities for a further 10 years from 1997. Among the objectives identified for the BBC's public service activities were the giving of priority to the interests of audiences rather than other interests; the maintenance of independence in its editorial decisions; and proper accountability to its audiences. As are other broadcasters, the BBC would continue to be under an obligation to present news with accuracy and due impartiality, which should also be preserved in programmes dealing with controversial issues and matters of public policy.

The press

367. Paragraphs 268 and 269 of the third periodic report and paragraphs 69 and 70 of the supplementary report explained that the long tradition of press freedom is an important element in the protection of human rights in the United Kingdom. Successive Governments have taken the view that self-regulation of the press is preferable to any form of statutory control and the press has, in general, the same freedom as the individual to seek, receive and impart information and ideas.

368. Paragraph 71 of the supplementary report explained, however, that, in response to continuing public and parliamentary concern about the activities of some sections of the press, the Government had in 1989 set up an independent committee under Sir David Calcutt Q.C. to review privacy and related matters. The Government had accepted its main recommendation that the Press Council be replaced by a Press Complaints Commission, which had been set up by the newspaper industry in January 1991. The Government had made clear that it would review the operation of the Commission after 18 months and, if it was not effectively regulating the industry, would introduce statutory regulation.

369. In June 1992, the Government asked Sir David Calcutt to assess the effectiveness of the Press Complaints Commission. Sir David concluded that the Commission had not been effective and should be replaced by a statutory tribunal and he made five other recommendations bearing on the protection of privacy. The Government made clear that it was reluctant to see a statutory tribunal, but it accepted in principle Sir David's other recommendations and asked the newspaper industry to give attention to the failings of self-regulation identified in Sir David's report.

370. In March 1993, the Parliamentary Select Committee on National Heritage issued a report on privacy and media intrusion, which made several wide-ranging recommendations, including the enactment of a privacy bill with criminal and civil sanctions and the establishment of a new Press Commission to replace the Press Complaints Commission. In addition, the Committee recommended the appointment of a Press Ombudsman to deal with complaints from those dissatisfied with the way the Press Commission had handled their case.

371. The Government has been considering the issues raised by these reports and, in particular, how to achieve a proper balance between the right to freedom of expression conferred by article 19 of the Covenant and the right to privacy conferred by article 17. It has also encouraged the newspaper industry to make further improvements to self-regulation and has welcomed any such steps which have been taken. When the Government has completed its consideration of the issues, it will publish a White Paper which responds to the recommendations of the Select Committee and the outstanding recommendations of Sir David Calcutt.

Open government

372. Article 19 confers the right to hold opinions without interference and the right to freedom of expression. This right includes the freedom to seek, receive and impart information and ideas, but it is not primarily concerned with guaranteeing access to information owned by others. Paragraphs 373 to 379 below, describe some of the United Kingdom's methods of ensuring open government; they may assist freedom of opinion and expression but, in the United Kingdom's view, they are not measures which are required to give effect to the rights conferred by article 19.

373. Citizens of the United Kingdom continue to have increasing access to official information. The Environmental Protection Act 1990 requires that pollution registers must be maintained for public inspection, the Access to Personal Files Act 1990 gives the subject access to certain files held on that

person by local authorities in relation to housing and social services and the Access to Health Records Act 1990 gives patients the right of access to records held on them by their doctors and the health authorities. The Environmental Information Regulations 1992 provide a general right of public access to information on the environment.

374. There have also been important increases in the amount of official information which is released. Since 1992, the Health and Safety Commission has published incident reports where there is serious public concern about an incident or where an incident gives rise to general or technical lessons. As part of the Open Government Initiative, the membership and terms of reference of Ministerial Cabinet Committees were published for the first time in May 1992, as was Questions of Procedure for Ministers, the guidance given to all ministers on appointment.

375. Important historical government records have been made available and the criteria governing the extended closure and retention of historical records have been reviewed. In future, it will be a condition for the retention of records beyond the usual 30-year period that their release would cause actual harm to important interests, such as national security or the management of the economy.

376. Following the publication of the Government's proposals and wide public consultation, a Code of Practice on Access to Government Information has now come into effect and is attached at annex M. The Code has two strands, the first being a commitment to increase the amount of information volunteered by Government. This includes giving facts and analysis with major policy decisions, opening up internal guidelines about government departments' dealings with the public, giving reasons with administrative decisions and providing information about public services (their costs, targets and performance and information about complaints and redress).

377. The second strand is responding to requests for information. Anyone may ask to see any information held by government bodies and the criteria governing responses to such requests are clearly set out. The Government recognizes the need to safeguard the confidentiality of, for example, information whose release would be damaging to national security, the conduct of international relations, law enforcement and legal proceedings or commercial or personal privacy.

378. Should it be felt that the terms of the Code have not been observed, applicants whose requests for information have been refused may ask the department or body concerned to review their decision. If they are not satisfied by the outcome of this internal review, they may complain, via a member of Parliament, to the Parliamentary Commissioner for Administration, the independent ombudsman who investigates complaints of maladministration. He has extensive powers to see government papers, make recommendations and report to Parliament on his findings. This complaints mechanism safeguards the important democratic principle whereby ministers are accountable to Parliament for their department's actions.

379. The Government has also set out its proposals for two new statutory rights of access to health and safety information and to personal information. These will be introduced as soon as parliamentary time allows.

Article 20

380. Paragraph 273 of the third periodic report described how the law on incitement to racial hatred in Great Britain had been strengthened by sections 18 and 19 of the Public Order Act 1986. The Criminal Justice and Public Order Bill, which is currently before Parliament, would provide the police with an immediate power of arrest for the offence in section 19 of the 1986 Act (publishing or distributing written material likely or intended to stir up racial hatred). The Government keeps the effectiveness of the law on incitement in this area under review but has no plans, at present, to extend the scope of the law by, for example, introducing in Great Britain legislation on incitement to religious hatred of the type that exists in Northern Ireland.

381. The Committee has previously asked for information about the number of proceedings instituted for incitement to racial hatred. By May 1994, 15 persons had been or were in the process of being prosecuted for offences under Part III of the 1986 Act, which came into force in April 1987.

Article 21

382. Paragraphs 276 and 277 of the third periodic report described the conditions that can be imposed on marches and meetings in order to preserve public order. The Criminal Justice and Public Order Bill, which is currently before Parliament, would allow broadly similar restrictions to be imposed upon other types of events which have in recent years caused problems for public order and public tranquillity.

383. The Bill would provide the police with powers to control illegal raves. These are large gatherings at which people congregate and play exceptionally loud amplified music throughout the night and often for several days and nights at a time. This has the effect of depriving residents in usually quiet rural areas of any opportunity for sleep. As it is difficult to deal with huge numbers of people when they have arrived at such events - one particular rave at Castlemorton Common in Worcestershire in May 1992, for example, attracted 20,000 people - the Bill would provide the police with powers to prevent such numbers gathering. There would be tight controls to ensure that the power was not used excessively: the authority of a senior police officer would be required and he could only authorize action if he believed that the playing of amplified music during the night would cause serious distress to the local community.

384. The third periodic report also referred to the limited circumstances in which public marches can be banned. The events at Castlemorton Common led the Government to conclude that similar powers should be extended to static assemblies where the persons taking part are trespassers. The Government believes that such powers are needed to protect the local community from the serious disruption that might occur from such an assembly or to prevent significant damage to sites of special interest.

385. The Criminal Justice and Public Order Bill would therefore provide a chief officer of police with the power to apply to the local authority for an order prohibiting for a period of not more than four days the holding of a trespassory assembly within a specified area, where he believed that such an assembly would be held which might result in serious disruption to local residents or significant damage to a site of historical, architectural, archaeological or scientific importance. The consent of the Secretary of State to the making of the order would also be required.

386. In addition, the Bill would provide the police with powers to deal with those who trespass and seek to disrupt the lawful activities of others, particularly the often violent problem at country sports events.

387. The Bill would provide protection for those engaged in lawful activities on land in the open air from trespassers intentionally using disruptive behaviour. It would introduce the offence of aggravated trespass, making it a criminal offence to trespass on land in the open air and intentionally obstruct or disrupt a lawful activity or intimidate persons on the land so as to deter them from engaging in a lawful activity. The Bill would also give the police the power to direct trespassers to leave land if they believed that the trespassers would seek to prevent or disrupt a lawful activity on the land; it would be a criminal offence to ignore such a direction.

Article 22

Trade unions

388. On 31 December 1993 there were 287 listed trade unions. Listing is voluntary and there may be more unions which are not listed. In 1993, total union membership was about 7.68 million, which represented about 31 per cent of the working population.

389. Paragraph 285 of the third periodic report and paragraphs 74 to 76 of the supplementary report described the legislation on trade union membership enacted in the Employment Acts 1988 and 1990. The Government continues to support the right to join and not to join a trade union. As set out in the Green Paper, "Industrial relations in the 1990s" (Cm 1602), published in July 1991,

> "One of the basic principles underlying the [industrial relations] legislation which the Government have introduced since 1979 is that every employee should have the right to decide whether or not to belong to a trade union ... No one is any longer obliged to accept a requirement to belong to a trade union in order to obtain employment ... Equally, no one is obliged to accept a requirement to leave, or not to join, a trade union."

390. The Trade Union Reform and Employment Rights Act 1993, which came into force in 1993-1994, enhanced the protection available to individuals in this area. The 1993 Act includes provisions which aim to give individuals greater freedom to join the trade union of their choice. Although earlier legislation

provided comprehensive protection against discrimination in employment on the grounds of an individual's membership or non-membership of a trade union, there has previously been no statutory protection for those denied entry to, or expelled from, a union of which they wish to be a member.

391. There were several cases in the United Kingdom where applicants were denied membership of the union of their choice because of inter-union agreements which sought to protect spheres of influence at the expense, in some cases, of the wishes of the individuals concerned. There was, for example, a case where members of the shop-workers' union, USDAW, disagreed fundamentally with that union's policy on Sunday trading and consequently wished to move to the General, Municipal and Boilermakers' Union, but the application of the inter-union rules of the Trades Union Congress prevented them from doing so.

392. Section 14 of the 1993 Act gives a general right to a remedy if an individual is refused membership of a trade union, with certain exceptions that aim to ensure that a union is not obliged to accept inappropriate applications. The law makes it clear that a union is not obliged to accept someone into membership if it does not recruit employees of a similar skill, qualification or occupation, or if his conduct while a member of another union was unsatisfactory or unreasonable. Unions which operate in a particular part of the country will not be obliged to accept members from outside that area and staff associations will not be obliged to accept as members those who work for a different employer.

393. The 1993 Act further enhances the statutory protection against discrimination on grounds of trade union membership. Under United Kingdom law some unfair dismissal claims may only be made by employees who have served the relevant qualifying period of employment. The right not to be unfairly dismissed on grounds of trade union membership, activities or non-membership has never been subject to such qualifying conditions; it applies to all employees whatever their length of service and hours of work. The right not to be unfairly selected for redundancy on such grounds was, however, previously subject to qualifying conditions; full-time employees had generally to have two years' continuous service. Paragraph 1 of Schedule 7 to the 1993 Act removes these qualifying conditions. Employees selected for redundancy because of their union membership, activities or non-membership are now able to complain of unfair treatment and obtain a remedy under the law, regardless of their length of service or hours of work.

394. In November 1993, the Government obtained an injunction to prevent the Prison Officers' Association (the POA) calling industrial action which would have caused serious disruption to the criminal justice system as a whole. The court accepted that, under section 8 of the Prison Act 1952, prison officers have the powers of a constable and are therefore in "police service" for the purposes of employment protection and trade union legislation and that, consequently, the POA is not in law a trade union and does not enjoy the legal immunities of a union under current legislation. It was thus unlawful for the POA to induce prison officers to breach their employment contracts.

395. The Criminal Justice and Public Order Bill, which is currently before Parliament, would place industrial relations in the Prison Service on a proper footing by:

(a) Applying to prison officers the same employment rights as other Crown employees and giving bodies representing them the status and immunities of trade unions;

(b) Maintaining the position that it is unlawful to induce prison officers to take industrial action; and

(c) Enabling the making of regulations governing procedure for pay and pay-related conditions.

396. Further to paragraphs 77 and 78 of the supplementary report to the third periodic report, in 1993 the Committee of Experts of the International Labour Organization (ILO) produced their latest observations on the United Kingdom's compliance with Convention No. 87 (Freedom of Association and Protection of the Right to Organize). In addition, the Trades Union Congress (the TUC) wrote to the ILO in December 1993 complaining that certain provisions of the 1993 Act constituted breaches of Convention No. 87.

397. The Government will be responding to the observations of the ILO and to the TUC's complaints as part of the normal reporting cycle for ILO conventions. Nothing, however, in the Committee of Experts' latest observations or the TUC's letter has caused the Government to alter its view that United Kingdom law complies with all of its international obligations, including those arising under Convention No 87.

398. The TUC also wrote to the ILO in August 1993 complaining that certain provisions of the 1993 Act amounted to a possible denial of the guarantees afforded by Convention No. 98 (Right to Organize and Collective Bargaining); the complaint resulted in Committee on Freedom of Association Case No. 1730. The Government sent its observations on this case to the ILO in March 1994 and will respond, as appropriate, to the ILO's Committee of Experts in the normal course of the ILO reporting cycle.

Terrorist organizations

399. Paragraphs 278 and 279 of the third periodic report set out the powers that are available in the United Kingdom to proscribe any organization that appears to the Secretary of State to be concerned in terrorism connected with the affairs of Northern Ireland or in promoting or encouraging such terrorism. In August 1992, the Secretary of State for Northern Ireland added the Ulster Defence Association to the list of organizations proscribed in Northern Ireland under the Northern Ireland (Emergency Provisions) Act 1991, which replaced the 1978 and 1987 Emergency Provisions Acts.

400. During the oral examination on the third periodic report (CRC/C/SR.1049, para. 37), the question was raised whether there had been many convictions for the offence of membership of a proscribed organization. As far as recent years are concerned, there were 16 such convictions in Northern Ireland in 1991, 15 in 1992 and 24 in 1993; there were none in Great Britain.

Article 23

401. The Government recognizes the importance of the family as providing the essential environment for bringing up children and gives every priority and encouragement to the family in the development of its policies. Because issues affecting the family cut across the work of most government departments, it is not appropriate for there to be a single Minister for the Family. The Prime Minister has, however, asked the Secretary of State for Health to take the lead in drawing together those government policies which affect families and in responding to general questions about the family.

Taxation

402. From April 1993, husbands and wives have been equally entitled to benefit from the additional tax allowance given to married couples. Either partner can claim half of this allowance as of right, whilst, if both partners agree, the allowance can be given solely to one of them. Any unused allowance can be transferred to the other partner at the end of the tax year.

Family unity

403. The United Kingdom upholds the principle of family unity, as recommended by the Final Act of the Conference that adopted the 1951 United Nations Convention relating to the Status of Refugees. Those recognized as refugees may be joined immediately by their spouse and minor dependent children. Other close relatives may be admitted where there are exceptionally compelling circumstances.

404. Changes to the Immigration Rules made under the Immigration Act 1971 which are expected to come into force on 1 October 1994 will make provision for a divorced or separated parent living abroad of a child resident in the United Kingdom to seek entry to the United Kingdom for the purpose of exercising access rights, granted by United Kingdom courts, to the child.

Article 24

Convention on the Rights of the Child

405. The United Nations Convention on the Rights of the Child entered into force in respect of the United Kingdom on 15 January 1992. The Government's perception of the rights and needs of children is closely aligned to the philosophy of the Convention and the United Kingdom's first periodic report under the Convention, which was submitted in March 1994, recorded the Government's intention to build on its record in the treatment of children with the steady introduction of new measures to improve children's lives in a wide range of areas.

Child-care law in England and Wales

406. Paragraphs 80 to 85 of the supplementary report to the third periodic report described the provisions of the Children Act 1989, which came into force in England and Wales in October 1991. The 1989 Act, which revises and clarifies the law relating to the care and upbringing of children, encompasses five main principles:

(a) The child's welfare is the paramount concern;

(b) Children are best cared for by both parents wherever possible;

(c) The State and the courts should intervene only where it will clearly make things better for the child;

(d) Delay is not generally in the interest of the child; and

(e) The laws and procedures regarding children should be unified.

407. The 1989 Act introduced the concept of "parental responsibility" for children, to be shared equally between both married parents. This allows them to continue sharing in the child's life and longer-term welfare upon breakdown of their relationship. Where the parents are not married, the father can acquire parental responsibility by way of a court order or registration of an agreement by both parents to share parental responsibility. When disputes regarding children arise, parents are encouraged to try to reach agreement about their children's future and the court will only make orders if absolutely necessary. So parental responsibility is unaffected by the separation of parents and, when courts make orders in private proceedings, such as divorce, that responsibility continues and is limited only to the extent that any order settles certain concrete issues between the parties.

408. In determining matters relating to the upbringing of a child, the courts in England and Wales are required at all times to have the child's welfare as their paramount consideration. In determining what is in the best interests of the child, the courts have a wide discretion, enabling them to take into account the various factors which appear to them to be relevant in a particular case, and will make such orders as they consider appropriate in the circumstances of the individual case. The objective of the courts is to try, in resolving disputes concerning children, to do what is best for the child.

409. The 1989 Act does not attempt to steer the court to a particular conclusion as it is, generally, in the child's interest for him or her to maintain contact with both parents after separation or divorce. Any such guidelines would inevitably detract from the duty of the court in each case to decide what is best for the child concerned. However, the Act sets out a "checklist" of the various issues to which the courts shall have particular regard when dealing with applications for, for example, residence or contact:

(a) The ascertainable wishes and feelings of the child concerned (considered in the light of the child's age and understanding);

(b) The child's physical, emotional and educational needs;

(c) The likely effect on the child of any change in circumstances;

(d) The child's age, sex, background and any characteristics that the court considers relevant;

(e) Any harm the child has suffered or is at risk of suffering;

(f) How capable each of the child's parents, and any other person in relation to whom the court considers the question to be relevant, is of meeting the child's needs; and

(g) The range of powers available to the court under the Act in the proceedings in question.

410. The 1989 Act's overriding purpose is to promote and protect the welfare of those children who come before the courts. Local authorities have taken the opportunity of the legislation to review and redesign their services and provision in the area of child care with a view to supporting the element of parental responsibility and the principle of non-intervention established by the Act. Local authorities now resort to the courts only where the welfare of the child cannot be properly provided for in any other way.

411. The 1989 Act made significant advances in ensuring that children's views are taken into account. The Act provides for children to be represented by their own personal guardian ad litem in any case brought by a local authority. This person will ensure that the child's wishes are made known directly to the court, always having regard to the child's age and ability to understand the proceedings. Older children may, with the leave of the court, bring their own proceedings and instruct their own solicitor, for example, on applications to the court for decisions on aspects of their upbringing, such as with whom they should reside or have contact. The court may direct that the child's views be ascertained by way of a welfare report.

412. The 1989 Act established for the first time a concurrent jurisdiction across all tiers of the court system to include the High Court, the county courts and the Family Proceedings Courts. All of the judiciary involved in hearing Children Act work receive special training in the operation and philosophy of the Act.

413. Monitoring of the working of the 1989 Act is achieved through a national network of Family Business and Family Services Committees, which report to a multidisciplinary central body, the Children Act Advisory Committee. The Committee reports annually to Ministers (the Lord Chancellor, the Home Secretary and the Secretary of State for Health) on the operation of the Act and makes recommendations about any changes required.

414. The Advisory Committee's third annual report will be published in January 1995. These reports are widely distributed and are available free of charge to members of the public. The reports show that, despite the wide-reaching changes in the way that the courts, local authorities and others deal with children who are the subject of court proceedings, a good level of interdisciplinary cooperation has been achieved and that, overall, the provisions of the Act are working well. The Committee has brought forward a number of recommendations for further streamlining the court process for the benefit of the children concerned and will continue to seek further refinements of the legislation.

415. In addition, the Secretary of State for Health is required under the 1989 Act to lay before Parliament each year information about local authority functions relating to children, certain services for children provided by the

voluntary sector and court proceedings under the Act. This Children Act Report provides an overview of the progress made in implementing the Act in the public law field and is informed by statistical information, research commissioned by the Department of Health and the work of the Social Services Inspectorate. The latest Children Act Report, covering 1993, shows that, in line with the philosophy of the 1989 Act, more children are being raised in a family environment, either in their own homes by their own parents, supported by local authorities where necessary, or by foster parents. It is intended that the next report, covering 1994, will be published in early 1995.

Child-care law in Scotland

416. In Scotland, the Social Work (Scotland) Act 1968 embodies similar principles concerning the rights of the child to those that apply in England and Wales. Further to paragraph 305 of the third periodic report, the report of the review of child-care law in Scotland appointed by the Secretary of State in October 1987 was published in October 1990. Since then there have been a number of further developments, including a review of adoption law, a report by the Scottish Law Commission on family law, the Report of the Inquiry into the Removal of Children From Orkney in February 1991, a review of child-care services in Fife and a review of residential child-care services throughout Scotland. In the light of these reports, the Government published in August 1993 a White Paper, "Scotland's Children: Proposals for Child Care Policy and Law" (Cm 2286), and from this it is hoped to promote legislation in the form of a broadly-based Bill relating to children and families in Scotland. In addition to the legislative changes which will be made in due course, a number of improvements in child-care services, policy and practice have already been made through administrative means, increased funding and additional training of social work staff.

Child-care law in Northern Ireland

417. In Northern Ireland, the civil law relating to children and their families is being revised. A proposal setting out a new legal framework was issued for public consultation in 1993 and legislation is expected to be introduced later this year, which should come into operation during 1995. This would bring together the private and public law on the care, upbringing and protection of children in a single, comprehensive code along the lines of the Children Act 1989 in England and Wales.

Adoption

418. Paragraph 90 of the supplementary report to the third periodic report referred to a review of adoption law in England and Wales, largely contained in the Adoption Act 1976, to take account of recent developments in adoption practice and changes in related legislation, such as Children Act 1989. An interdepartmental working group was established in 1989 and four consultation documents were issued in 1990-1991, seeking views from all those with an interest in adoption, including birth parents, adoptive parents, professionals, statutory and voluntary bodies and people adopted as children.

419. Following an analysis of the comments received in that consultation process, the interdepartmental working group presented a report to ministers in July 1992 and this report formed the basis of further consultation. In November 1993, the Government published a White Paper, "Adoption: The Future" (Cm 2288), a copy of which is attached at annex N, setting out its proposals for amending the adoption law. Work is currently in progress on certain specific issues before the drafting of the new legislation begins.

420. Running parallel to this review has been the Hague Conference on Private International Law on Inter-country Adoption, in which the United Kingdom was involved throughout. In May 1993, the Conference completed its work with the production of the Hague Convention on the Protection of Children and Cooperation in respect of Inter-country Adoption. The United Kingdom signed the Convention in January 1994 and intends to ratify it as soon as the necessary legislation is in place.

421. The Scottish Office was associated with the interdepartmental group established in England and Wales in 1989 because of the very close parallels in adoption law, the Adoption (Scotland) Act 1978 being very similar to the Adoption Act 1976, and because of a shared interest in inter-country adoption. A review proceeded in Scotland on the same basis as that in England and, following the issue of four working papers covering various aspects of law and practice, a consultation document, "The Future of Adoption Law in Scotland", was published in June 1993. The responses are being assessed and it is likely that a policy statement about possible future changes will be issued shortly.

422. In Northern Ireland, the law on adoption is contained in the Adoption (Northern Ireland) Order 1987 and in regulations and rules of court made under that Order and is broadly similar to the law in Great Britain. The Government will consider the need for changes to Northern Ireland adoption law to reflect any changes made to the law in England and Wales as a result of the White Paper, "Adoption: The Future", to which paragraph 419 above, refers.

Asylum

423. The changes in the Immigration Rules made under the Immigration Act 1971 (HC 725), which accompanied the introduction of the Asylum and Immigration Appeals Act 1993, make specific provision for dealing with unaccompanied children. The Rules stress the need for particular priority and care in the handling of such cases and the Government funds a non-statutory Panel of Advisers for unaccompanied children, organized and run by the Refugee Council. The role of an Adviser is to act as a "friend" to the child in his dealings with government departments and agencies and with local government authorities whilst the asylum claim is outstanding. No child (defined as those aged under 18) is interviewed about the substance of his claim to refugee status if it is possible to obtain sufficient information by written inquiries or from other sources.

Employment of children

424. As noted in paragraph 405 above, the United Nations Convention on the Rights of the Child entered into force in respect of the United Kingdom in January 1992. One of the reservations entered by the United Kingdom on the ratification of the Convention relates to article 32.2 (b), which seeks to

regulate the hours and conditions of employment of children. The Convention's definition of a child includes 16-18 year olds. These are classed as young people in the United Kingdom and their hours and conditions of employment - like those of other employees - are a matter for negotiation between employers and employees or their representatives.

Child witnesses

425. Paragraph 92 of the supplementary report to the third periodic report described how the Criminal Justice Act 1991, which came into force in October 1992, changed the law in England and Wales to ease the stress and burden of criminal proceedings for children in cases of child abuse. The principal change was to allow a child's evidence to be given as a video recording of an earlier interview, with subsequent cross-examination via a live television link with the child in a room separate from the court.

426. These provisions will be replicated for Northern Ireland by separate legislation, while, in Scotland, provisions were introduced in 1990 to enable child witnesses to give their evidence in criminal trials in appropriate cases by live television links. The Prisoners and Criminal Proceedings (Scotland) Act 1993 added to the range of means by which children's evidence may be brought before a criminal court by permitting the use of screens in court to separate a child witness from an accused person and by permitting the evidence of a child to be taken "on commission" in advance of the trial. Where the commission provisions are used, the proceedings will be video recorded and the recording will be available for replaying in court.

Child abuse

427. As noted in paragraph 324 of the third periodic report, statutory responsibility for the care and protection of children in England and Wales who may be at risk of abuse rests with the local authority social services departments, with health services, the probation service, the police, the education service and voluntary organizations also involved wherever appropriate. Under the Children Act 1989, the local government authorities in England and Wales now have a statutory duty to investigate information received suggesting that a child may need protection. A similar duty is placed on local authorities in Scotland by the Social Work (Scotland) Act 1968, while, in Northern Ireland, Health and Social Services Boards and Trusts have a statutory responsibility for the care and protection of children who may be at risk of abuse.

428. Central to inter-agency cooperation in England and Wales is the Area Child Protection Committee, the recognized joint forum at local level for developing and monitoring child protection policies. At a national level, the Inter-Departmental Group on Child Abuse, comprising senior officials from a number of government departments, meets regularly to discuss issues relating to child protection.

429. In October 1991, to coincide with the implementation of the Children Act 1989, a revised version of the Government's inter-agency child protection guidance for England and Wales - "Working Together under the Children Act 1989" - was issued jointly by the Department of Health, the Home Office,

the Department for Education and the Welsh Office. In 1992, the Department of Health published a revised version of professional guidance for nurses and has also provided practice guidance to social workers involved in the assessment of child abuse cases and guidance to all doctors on the diagnosis of child sexual abuse. In Northern Ireland, the Government publication, "Co-operating to Protect Children", provides guidance on the prevention, detection and management of child abuse, while the Health and Social Services Boards, in consultation with the police, have drawn up a joint protocol for child abuse investigation.

430. As mentioned in paragraph 327 of the third periodic report, in October 1986, the Government launched a central training initiative in England and Wales for the training of managers and practitioners in child abuse work. Grants totalling over £3.5 million have been given to produce child protection training materials for those in different professional disciplines and awareness materials for the wider public. The Government has also funded a survey to establish the nature and range of treatment facilities for abused children and for young perpetrators of abuse, which informed the deployment of resources, from 1990, in a centrally funded treatment initiative. At the end of 1993-1994, nearly £1.1 million had been provided in grants for a range of child abuse treatment projects. In addition, as part of the Department of Health's overall child-care research programme, there is in place an extensive range of research projects in relation to child abuse. In Northern Ireland, a special training initiative, launched in September 1988 for Health and Social Services Boards staff involved in dealing with child abuse, provides funds of £100,000 a year.

431. Further to paragraph 328 of the third periodic report, at local level, each local authority social services department in England and Wales holds a central register which lists all the children in the area who are considered to be at risk of abuse and who are therefore currently the subject of an inter-agency plan to protect them. (Registration takes place as a result of a child protection conference, which decides whether a child is at risk of abuse and whether the child's name should be placed on the register. If the child's name is placed on the register, the conference also draws up an inter-agency plan to protect the child.) Since 1989 the Department of Health has produced an annual statistical publication on children and young people on child protection registers in England containing both national and local information. Similar arrangements are in place in Wales, Scotland and Northern Ireland.

432. The Children Act 1989 provides a range of court orders to enable the correct balance to be struck between the rights of parents to bring up their children and the duty of the State to intervene when necessary to protect the child. The child protection provisions of the 1989 Act are designed to promote appropriate and decisive action to protect children from abuse or neglect, combined with reasonable opportunities for parents, the children themselves and others to present their point of view.

Under fives/day care

433. Further to paragraphs 96 to 102 of the supplementary report to the third periodic report, the Government continues to encourage the development of good quality day-care services. The Children Act 1989 introduced a new duty under

which local authorities in England and Wales and in Scotland are required to review the day-care services in their area every three years and publish a report. During the review process they should consult local organizations and individuals. This duty requires local authorities to take a strategic view of the pattern and level of services, which will ensure coherent expansion and development.

434. A scheme to encourage local voluntary groups in England and Wales to expand or develop services targeted on lone parents, isolated families under stress, ethnic minorities and two parent families on low incomes has been in operation since 1987-1988. It involves the allocation of lump sums to seven national charities - the Pre-School Playgroups Association, the National Council for Voluntary Child Care Organizations, the National Childminding Association, Home Start UK, the National Toy Libraries Association, the National Playbus Association and Gingerbread - which distribute small grants to local groups providing services for under eights and their families. The Secretary of State for Scotland also makes grants available to voluntary organizations concerned with services for under fives.

435. The Department of Health is spending £1.5 million over three years from 1992-1993 to assist the expansion of day care for school age children. Twelve development officer posts are being funded in different parts of the country and the initiative is being independently monitored by the University of Sussex. A small grants scheme is also operated to help the expansion of existing clubs.

436. In March 1994, the Government announced a new initiative called "Childcare Circles". This is designed to test ways of enabling groups of parents to cooperate over the organization of child-care arrangements. It might involve babysitting circles and similar activities, all of which enable parents to participate in community or social activities and paid employment. Parents - particularly lone parents - and other interested people will be encouraged to take more control over their own lives by creating their own informal self-help circles or networks, which will operate without the long-term involvement of paid professional staff.

437. The Department of Health is spending £300,000 to fund projects in Wandsworth, Sheffield, Somerset and Wolverhampton to assist the practical development of Childcare Circle schemes. The projects involve some input from paid staff, working with lone parents - especially young lone mothers - to encourage them to become self-sufficient and capable of helping themselves by linking up with other mothers to develop support networks, and small capital works to provide meeting places for parents to use. The Government sees this idea as a constructive way to encourage self-help among disadvantaged communities and as a practical contribution to the International Year of the Family.

438. In Northern Ireland, following the completion of an interdepartmental review, it is planned to publish a statement setting out a new policy framework for day care, which will form the basis of the future development of services. The policy will be supported by the new legislation on child care in Northern Ireland, which, as noted in paragraph 417 above, is expected to be introduced later this year and which in its day-care provisions will mirror the Children Act 1989.

439. As in the rest of the United Kingdom, most day-care places in Northern Ireland are provided by the voluntary and private sectors. In 1993-1994, the Government paid grants totalling £252,000 towards the regional administration and development costs of voluntary organizations specializing in day care for young children; the Government also allocated £310,000 to the Health and Social Services Boards on a one-off basis to support local initiatives in this field.

440. In 1992, the United Kingdom accepted the European Community Recommendation on Child Care. This covers child care, leave for employed parents, flexible working arrangements and the sharing of work and family responsibilities by both parents. Member States are required to report to the European Commission in March 1995 on measures taken to give effect to the Recommendation.

Article 25

Civil service

441. Paragraphs 348 to 358 of the third periodic report and paragraph 103 of the supplementary report set out certain provisions concerning the employment of staff in the civil service, including its policy of equality of opportunity, and explained the rules governing political activities by civil servants, which allow them the greatest possible freedom to participate in public affairs consistent with their obligation of loyalty to the Government of the day.

442. As envisaged in paragraph 357 of the third periodic report, the Civil Service Commissioners have taken on a stronger monitoring role, backed up by legislation in which the Minister for the Civil Service has laid down rules relating to selection on merit on the basis of fair and open competition, together with associated advice on good practice in recruitment. Reviews of a representative sample of 360 recruitment units have been completed since the programme began in 1991.

443. In common with most other countries, the United Kingdom restricts employment in its civil service (and in certain Crown and prescribed public bodies) primarily to its own citizens. Changes were made in 1991 to bring United Kingdom law into line with European Community law in opening many civil service posts to nationals of other EC member States (and to certain non-EC family members). On 1 January 1994, following the United Kingdom's ratification of the European Economic Area (EEA) Agreement, the nationals of five of the European Free Trade Area (EFTA) States (and certain non-EFTA family members) became eligible under freedom of movement provisions for civil service posts on the same basis as EC nationals.

444. Further to paragraph 351 of the third periodic report, some posts in the civil service, involving access to sensitive material, usually concerned with national security, continue to be restricted to individuals who have satisfied certain criteria with regard to their reliability. To ensure that these standards are met, government departments and agencies make security vetting inquiries; the extent of the vetting investigation is determined by the value and sensitivity of the material to which the individual will have access.

445. Since 1990, all individuals involved in this process have completed a security questionnaire, which explains the type of inquiries which will be carried out. These include checks with the relevant security authorities and may include a limited examination of the individual's financial status. The need for such security checks has been re-evaluated and such inquiries are now better focused; as a consequence, the number of those submitted to security vetting has diminished and the nature of such inquiries has become less intrusive.

Ethnic minorities in public life

446. There are four members of the House of Commons who are of minority ethnic origin.

447. It is the policy of the Lord Chancellor, who appoints or recommends for appointment judges in England and Wales, to appoint to each judicial post the candidate who appears to be best qualified to fill it, regardless of gender, ethnic origin, political affiliation or religion. Without prejudice to this overriding principle of appointment on merit, he has repeatedly stressed, however, that he would like to see more legal practitioners from ethnic minorities appointed to the judiciary.

448. A major factor which has influenced the number of people of minority ethnic origin in the judiciary has been the relative lack of minority ethnic practitioners in the legal profession in the relevant age groups. More members of ethnic minorities have, however, joined the legal profession in recent years and their numbers in the judiciary can be expected to increase as they attain the necessary level of experience and seniority for appointment.

449. Ethnic origin recording arrangements for appointments to the judiciary were introduced in October 1991. At 1 June 1994, there were believed to be 4 Circuit Judges (0.8 per cent of the total), 11 Recorders (1.3 per cent) and 9 Assistant Recorders (2.3 per cent) of minority ethnic origin.

450. In the 12 months ending June 1993, 85 (5 per cent) of those appointed to the lay magistracy were of minority ethnic origin.

451. The number of police officers in England and Wales of minority ethnic origin increased by 148 (8 per cent) in 1993; 1.5 per cent of the police service in England and Wales are now from ethnic minorities. There are no minority ethnic officers above the rank of Chief Superintendent.

452. In December 1992, 5 per cent of probation officers in England and Wales were recorded as belonging to a minority ethnic group.

453. In a voluntary survey in England and Wales in 1993, 2 per cent of prison officers and governors described their ethnic origin as other than white.

454. In 1993, 2.3 per cent of appointments to public bodies in Great Britain were held by persons of minority ethnic origin.

455. Between 1989 and 1993, ethnic minority representation among non-industrial staff in the civil service rose from 4 per cent to just over 5 per cent and the proportion at Executive Officer level and above rose

from 2.2 per cent to 3 per cent. A formal programme for action was introduced in 1990 to help government departments and agencies recruit, retain and develop the best available people from all sections of the population. Departments and agencies now have race action plans and are taking a number of steps to ensure equality of opportunity.

456. The Government remains firmly committed to ensuring that equal opportunities are afforded to all schoolteachers. The Department for Education and local education authorities have, however, experienced some practical problems in attempting to collect data on the numbers of practising teachers of minority ethnic origin. Consequently, from January 1994, the Department no longer required local education authorities to make an annual return on the ethnic origin of their schoolteachers. The Department is investigating alternative sources and methods of collecting more reliable data on the ethnic origin of schoolteachers and will continue its dialogue with the Commission for Racial Equality on how best to develop policies to increase the number of minority ethnic teachers in schools in England and Wales.

457. As mentioned in paragraph 366 of the third periodic report, in July 1989, the Department for Education issued a circular setting out the arrangements for the collection of ethnically based statistics on school pupils in maintained schools in England. The collection of ethnic data was introduced in the 1990/91 academic year. Information is collected on pupils entering primary and secondary schools (that is at the ages of 5 and 11). The purpose of the data collection is to assist the Department, local education authorities, schools, parents and others to ensure that the education provided in schools meets the needs of all pupils and thus helps secure equality of opportunity for those from ethnic minorities. As with the ethnic monitoring of teachers, however, the Department for Education and local education authorities have experienced some practical problems in collecting these data and the arrangements are being kept under review.

458. Further to paragraph 367 of the third periodic report, since 1990, a question has been incorporated in the Further Education Statistical Record on the ethnic origin of all applicants to further and higher education courses in Further Education Colleges. In addition, the University Central Council of Admissions and the Polytechnic Central Admissions System have, since 1990/91, asked applicants domiciled in the United Kingdom to code themselves on the application form for full-time first degree courses according to their ethnic origin. These data are published in "Statistics of Education: Further and Higher Education in Polytechnics and Colleges". Of 614, 459 students on higher education courses in polytechnics and Further Education Colleges in England in 1991/92, 83,823 or 14 per cent are known to have been of minority ethnic origin, while of the 117,976 accepted home applicants to universities in 1991/92, 8,240 or 7 per cent are known to have been of minority ethnic origin.

Women in public life

459. At the 1992 general election, a record 60 women were elected. Women now account for 9 per cent of the members of the House of Commons and for 10 per cent of the members of House of Commons departmental select committees, which scrutinize the work of government departments. For the

first time, a woman has been elected as Speaker of the House of Commons. All the major parliamentary parties recognize the need to improve the representation of women in Parliament and are taking steps to ensure that more women are included in candidates' lists.

460. Seventy-nine members (or 6 per cent) of the House of Lords are women. Most are life peers, as few hereditary titles are held by women, and the proportion of women among life peers, who are the most active members of the House, is 14 per cent.

461. At the end of July 1994, two members of the Cabinet were women (the Secretary of State for Education and for Health) and there were four other women in the Government.

462. The representation of women in the local government authorities in Great Britain has improved since the mid-1980s; in 1993, 25 per cent of local councillors were women, compared with 19 per cent in 1985. Following the local government elections in May 1993, 11 per cent of representatives on the district councils in Northern Ireland were women.

463. As noted in paragraph 447, above, it is the policy of the Lord Chancellor, who appoints or recommends for appointment judges in England and Wales, to appoint to each judicial post the candidate who appears to be best qualified to fill it, regardless of gender, ethnic origin, political affiliation or religion. Without prejudice to this overriding principle of appointment on merit, he has repeatedly stressed, however, that he would like to see more female legal practitioners appointed to the judiciary.

464. A major factor which has influenced the number of women in the judiciary has been the relative lack of women practitioners in the legal profession in the relevant age groups. Many more women have, however, joined the legal profession in recent years and their numbers in the judiciary can be expected to increase as they attain the necessary level of experience and seniority for appointment.

465. At 1 June 1994, 1 Lord Justice, 6 High Court Judges, 29 Circuit Judges, 41 Recorders and 59 Assistant Recorders were women. That represents 7.2 per cent of the total number of judges in those levels of the judiciary.

466. At 1 January 1994, 45 per cent of lay magistrates were women.

467. At 30 April 1994, 16,970 (13 per cent) of the 127,489 police officers in England and Wales were women, with 356 in ranks above sergeant.

468. At 31 December 1993, around 50 per cent of the 7,670 qualified probation staff in England and Wales were women, including 15 per cent of chief probation officers and 31 per cent of assistant chief probation officers.

469. In April 1992, 14 per cent of the Prison Service in England and Wales were women and women accounted for 9 per cent of the governor grades.

470. In 1993, 28 per cent of appointments to public bodies in Great Britain were held by women, compared with 23 per cent in 1990 and 19 per cent in 1986. Forty per cent of new appointments in 1993 were of women. At 31 March 1994, 31 per cent of appointments to public bodies in Northern Ireland were held by women.

471. In October 1991, the Prime Minister announced a new initiative to increase the number of public appointments held by women with the objective that between a quarter and a half of all such appointments should be held by women by the end of 1996. All government departments were required to develop a strategy to bring this about, which could include improvements to recruitment and selection procedures, greater emphasis on the representation of women in submissions on appointments and the inclusion of women on short lists. Departments' plans were published in November 1992 and progress towards their goals is being monitored.

472. In 1993, 51 per cent of non-industrial staff in the civil service were women, compared with 49 per cent in 1991.

473. The Programme of Action to Achieve Equality of Opportunity For Women in the Civil Service was launched in 1984; the Programme was revised and updated in 1992 to meet the current needs of the civil service and makes clear that government departments and agencies are expected to develop their own action plans for implementing the Programme. There has been significant progress for women at all levels of the service since 1984 - both in the numbers of women getting to the top and in improvements in work conditions.

474. Since 1984 the proportion of women at the top of the civil service (Grades 1 to 4) has grown from 4 per cent to over 9 per cent and there are now two women at Permanent Secretary level in government departments and seven at Chief Executive level in departmental agencies; the civil service has set a benchmark of 15 per cent for the proportion of senior posts expected to be held by women by the year 2000. There has also been an increase in women in the middle management grades: at the level of Grade 7 and Senior Executive Officer, for example, the proportion of women more than doubled between 1984 and 1993. In line with previous years, in 1993, 42 per cent of candidates applying for, and 40 per cent of those selected for, administrative "fast stream" appointments were women. At Executive Officer level, the proportion of women increased from 29 per cent in 1984 to 46 per cent in 1993.

475. A number of practical measures have been introduced to help women and men combine their career with domestic responsibilities. These include career breaks of up to five years without loss of seniority and the availability of flexible working patterns and part-time working at all grades. Part-time working is increasingly common among senior grades: in 1984, only 7 per cent of staff at Grade 7 and 2 per cent at Grade 5 worked part time; by 1993, this had risen to 15 per cent at Grade 7 and 14 per cent at Grade 5. The provision of child care has also increased: by 1993, there were 30 civil service nurseries, 10 nurseries set up in conjunction with other employers and about 120 holiday play schemes. Work is also in hand to develop after-school child care.

476. There is strong ministerial and senior management commitment to making progress, which is monitored in each government department and reported annually. Training to help promote equal opportunities includes women-only training, non-residential and distance learning and awareness training for staff of all grades.

477. In the Northern Ireland Civil Service, which is recruited separately, the representation of women in senior grades increased steadily between 1985 and 1993; at Grade 7, it grew from 7 per cent to 13 per cent and, at Grade 5 and above, from 3 per cent to 8 per cent. A goal has been set of 10 per cent representation of women at Grade 5 and above by the end of 1998. An Action Plan was published in December 1993; it builds on existing measures and includes action to address potential barriers on women's progress into senior grades and within specialist areas.

478. At 1 April 1994, 29 per cent of staff in the diplomatic service were women. Women remain underrepresented in senior levels: the proportion of women at ambassadorial level was 3 per cent in 1993, compared with 1 per cent in 1985.

479. In 1992, the diplomatic service set itself goals to increase significantly by the year 2000 the proportion of women in the grades in which they are currently underrepresented. To achieve these goals, the diplomatic service has introduced a range of policies aimed at attracting and retaining female staff, including measures to help staff combine work and family responsibilities, such as flexible working hours, child-care support and a career break scheme.

480. Of 614,459 students on higher education courses in polytechnics and Further Education Colleges in England in 1991/92, 292,926 or 48 per cent were women, while of the 117,976 accepted home applicants to universities in 1991/92, 58,165 or 49.3 per cent were women.

Voting rights of prisoners

481. In the light of the Committee's comments during the oral examination on the third periodic report (CRC/C/SR.1047, para. 59), the Government is reviewing the position whereby convicted, sentenced prisoners are not eligible to vote.

Election expenditure

482. During the oral examination on the third periodic report (CRC/C/SR.1050, para. 17), the question was raised whether there were restrictions on election expenditure by parties. While the campaign expenditure of individual candidates is subject to specified and strictly enforced limits under electoral law, there is no similar restriction on the expenses incurred by political parties. Such expenses may, however, only promote the policies of the party; they must not promote or procure the election of any individual candidate or they will count against the maximum allowed for that candidate.

Article 26

483. The United Kingdom continues to believe that the right of equality before the law and the entitlement without any discrimination to the equal protection of the law are fully recognized in the established tradition of the common law.

Article 27

Non-indigenous minority languages

484. As set out in paragraph 375 of the third periodic report, general education in a non-indigenous minority language is not offered as part of the mainstream curriculum in schools. This is because it is considered to be more advantageous to pupils to be taught in English. This enables them to take full advantage of the opportunities schools have to offer and to take a full part in society in their adult and working lives. There may, however, be initial bilingual support where a child's first language is not English, to ease the transition from home to school and to provide access to the curriculum. At secondary level, a range of mother tongue languages may be taught as a foundation subject, as part of the National Curriculum, and many children receive mother tongue teaching outside school hours in classes organized and paid for by the community.

Main indigenous minority languages

485. Further to paragraphs 377 to 380 of the third periodic report and to paragraphs 108 and 109 of the supplementary report, the Government's policy of support for the Welsh language has been maintained.

486. The Welsh Language Act 1993 came into force in December 1993. The 1993 Act establishes the Welsh Language Board (a non-departmental public body) on a statutory basis, with the function of promoting and facilitating the use of the Welsh language. The Board has a strategic role in all matters relating to the use of the Welsh language and advises the Secretary of State on such matters. The Board is funded by grant in aid from the Welsh Office.

487. The 1993 Act also provides for the preparation by public bodies at all levels of schemes which give effect to the principle that, in the conduct of public business and the administration of justice in Wales, the English and Welsh languages should be treated on a basis of equality. One of the tasks of the Welsh Language Board will be to approve such schemes; the Board will also investigate complaints alleging failure by public bodies to carry out schemes approved by the Board.

488. The 1993 Act repealed certain spent enactments relating to Wales which, almost without exception, were laws which placed the Welsh language in a subordinate position to the English language. In repealing those laws, the Government has removed from the statute book legislative barriers to the operation of the principle of equality.

489. The Education Reform Act 1988 provides a statutory place for Welsh in the curriculum of schools in Wales. Under the 1988 Act (as amended by the Education Act 1993), the Curriculum and Assessment Authority for Wales (known by its Welsh acronym of ACAC) has statutory responsibility for school curriculum matters in Wales and a major role in implementing the Government's policies on Welsh language education, both through the medium of Welsh and as regards the teaching of Welsh as a second language. In April 1994, ACAC inherited the responsibility for advising the Government on the use and future development of Welsh-medium education previously held by PDAG (the Welsh Language Education Development Committee, established in 1985 and disbanded in March 1994). One of the keys to the successful development of Welsh language education lies in active and constructive cooperation between all the statutory and other bodies involved. The Government therefore intends that those organizations with responsibilities for Welsh-medium education and for the language in general (including the Welsh Language Board and ACAC) should achieve a close working relationship. The Government also supports the Welsh nursery schools movement, which will receive a grant of £537,000 in 1994/95.

490. Direct financial support for the Welsh language in 1994/95 amounts to over £8.5 million, compared with £6.8 million in 1991/92. Responsibility for the distribution of funds to assist Welsh language organizations and to support Welsh language projects and developments in Welsh-medium and bilingual education is divided between the Welsh Office, the Welsh Language Board, ACAC and the further and higher education funding councils for Wales. The Government provides financial support towards the annual running costs of the Royal National Eisteddfod, an annual Welsh cultural festival (£389,000 in 1994/95); the Welsh Books Council, which administers a scheme of grants to publishers (£1,122,000 in 1994/95); and Urdd Gobaith Cymru, the Welsh language youth organization (£202,000 in 1994/95).

491. In addition, the language receives significant support and expenditure from various arts and cultural organizations, including the BBC and Sianel Pedwar Cymru (S4C - the Welsh Fourth Channel). Since 1981, all Welsh language television programming has been broadcast on S4C, which broadcasts in Welsh during peak viewing hours. S4C broadcasts an average of 32 hours of Welsh programmes a week and receives an annual Government grant of about £55 million. The BBC provides its own Welsh language radio channel, Radio Cymru, which broadcasts an average of 104 hours a week. A number of Welsh language newspapers are published on a weekly or monthly basis, while English language newspapers often carry articles written in Welsh, sometimes specifically aimed at learners. Government funding for Welsh arts and cultural activities is mainly channelled through the Arts Council for Wales, which supports a large number of Welsh language activities, including theatre, music and literature.

492. Further to paragraph 110 of the supplementary report to the third periodic report, the Government continues to ensure that the Gaelic language in Scotland is protected and developed. In 1994/95, Government funding to Gaelic organizations totals £0.5 million. In addition, Scottish local authorities will receive £1.934 million under the specific grant scheme for Gaelic education. The scheme, which was introduced in 1986, has been an outstanding success, with the establishment of some 45 Gaelic-medium primary

units catering for 1,080 pupils. The Government also provides £8.7 million per annum to the Gaelic Television Fund, which is intended to secure about 200 hours a year of television programmes in Gaelic.

493. Further to paragraphs 382 and 383 of the third periodic report and paragraphs 111 and 112 of the supplementary report, the Government recognizes that the Irish language is perceived by many people in Northern Ireland as an important part of their cultural heritage. The Government seeks to encourage interest in and appreciation of Irish and to highlight the contribution which it has made to the cultural heritage of the whole community. Interest in the Irish language has grown steadily in recent years; the 1991 Census in Northern Ireland indicated that 142,000 people (just under 10 per cent of the population) had some ability in the language.

494. The Government is prepared to respond positively, where practicable, to soundly based requests for assistance with Irish language projects. Support for Irish language-related programmes is provided through a number of government departments and public bodies; funding in 1993/94 amounted to £1.7 million, excluding provision for the teaching of Irish in English-medium schools.

495. The Ultach Trust, an independent Irish language body, was established in 1989 to widen appreciation of the contribution which Irish makes to the cultural heritage of Northern Ireland. The Government provided initial funding and a contribution of £250,000 to the Trust's Endowment Fund and provides support for the Trust's core expenditure and programme costs.

496. Under the Northern Ireland Curriculum, pupils are required to choose at secondary level to study one or more of the following languages: French, German, Spanish, Italian or Irish; and so they are able to take Irish instead of one of the major European Union languages.

497. The Government is anxious to remove any structural barriers to the use of Irish by those who wish to do so. To this end, in May 1994, it published for consultation draft legislation to remove existing provision which prohibits streetnames in any language other than English.

APPENDICES

Appendix I

LIST OF DOCUMENTS REFERRED TO IN THE REPORT

Acts of Parliament

Parliament Acts 1911 and 1949

Children and Young Persons Act 1933

Prison Act 1952

Firearms Act 1968

Social Work (Scotland) Act 1968

Children and Young Persons Act (Northern Ireland) 1968

Equal Pay Act 1970

Equal Pay Act (Northern Ireland) 1970

Immigration Acts 1971 and 1988

Northern Ireland Constitution Act 1973

Sex Discrimination Act 1975

Criminal Procedure (Scotland) Act 1975

Adoption Act 1976

Bail Act 1976

Fair Employment (Northern Ireland) Acts 1976 and 1989

Race Relations Act 1976

Adoption (Scotland) Act 1978

Northern Ireland (Emergency Provisions) Acts 1978, 1987 and 1991

Criminal Justice (Scotland) Act 1980

Education Acts 1980, 1986 (No. 2) and 1993

Education (Scotland) Act 1980

Employment Acts 1988 and 1990

Imprisonment (Temporary Provisions) Act 1980

Health and Social Services and Social Security Adjudications Act 1983

Mental Health Act 1983

Data Protection Act 1984

Mental Health (Scotland) Act 1984

Police and Criminal Evidence Act 1984

Interception of Communications Act 1985

Public Order Act 1986

Criminal Justice Acts 1988 and 1991

Education Reform Act 1988

Children Act 1989

Extradition Act 1989

Football Spectators Act 1989

Prevention of Terrorism (Temporary Provisions) Act 1989

Security Service Act 1989

Access to Health Records Act 1990

Access to Personal Files Act 1990

Broadcasting Act 1990

Courts and Legal Services Act 1990

Environmental Protection Act 1990

War Crimes Act 1991

Asylum and Immigration Appeals Act 1993

Prisoners and Criminal Proceedings (Scotland) Act 1993

Trade Union Reform and Employment Rights Act 1993

Welsh Language Act 1993

Other legislation

Scottish Prison Rules 1952

Prison Rules 1964

Police (Discipline) (Scotland) Regulations 1967

Immigration Rules made under the Immigration Act 1971

Sex Discrimination (Northern Ireland) Order 1976

Firearms (Northern Ireland) Order 1981

Northern Ireland Prison Rules 1982

Secure Accommodation (Scotland) Regulations 1983

Mental Health (Northern Ireland) Order 1986

Adoption (Northern Ireland) Order 1987

Police (Northern Ireland) Order 1987

Social Work (Residential Establishments - Children) (Scotland) Regulations 1987

Criminal Evidence (Northern Ireland) Order 1988

Young Offender Institution Rules 1988

Police and Criminal Evidence (Northern Ireland) Order 1989

Children (Secure Accommodation) Regulations 1991 and 1992

Police and Criminal Evidence Act 1984 (Tape Recording of Interviews) Orders 1991

Environmental Information Regulations 1992

Sex Discrimination and Equal Pay (Remedies) Regulations 1993

Sex Discrimination and Equal Pay (Remedies) Regulations (Northern Ireland) 1993

Asylum Appeals (Procedure) Rules 1993

Intelligence Services Act 1994

Police and Magistrates' Courts Act 1994

Race Relations (Remedies) Act 1994

Green Papers and White Papers

Green Paper:	Industrial relations in the 1990s (Cm 1602) (July 1991)
White Paper:	Custody, Care and Justice (Cm 1647) (September 1991)
White Paper:	Scotland's Children: Proposals for Child Care Policy and Law (Cm 2286) (August 1993)
White Paper:	Adoption: The Future (Cm 2288) (November 1993)
White Paper:	Firm and Fair - Improving the Delivery of Justice in Scotland (Cm 2600) (June 1994)
White Paper:	The Future of the BBC: Serving the nation, competing world-wide (Cm 2621) (July 1994)

Other documents

Downing Street Joint Declaration (December 1993)

Policing and Racial Equality - published by the Association of Chief Police Officers and the Commission for Racial Equality (February 1993)

Code for Crown Prosecutors

Race Relations in Norther Ireland - consultation document (December 1992)

Maternity Rights in Britain - survey by the Police Studies Institute (March 1991)

Disciplinary Code of the Royal Ulster Constabulary

Instruction to prison governors in England and Wales and guidance pack on caring for the suicidal in custody (February 1994)

Report by the European Committee for the prevention of Torture on its visit to Great Britain in 1990

Report by the European Committee for the Prevention of Torture on its visit to Northern Ireland in 1993

Prison Service Code of Discipline in England and Wales

Annual Report of the Commissioner of the London Metropolitan Police

Annual Report of the Chief Constable of the Royal Ulster Constabulary

Annual Report of the Independent Commission for Police Complaints for Northern Ireland

Codes of Practice (A to E) issued under the Police and Criminal Evidence Act 1984

Annual Report of the Independent Assessor of Military Complaints Procedures in Northern Ireland

Codes of Practice issued under the Police and Criminal Evidence (Northern Ireland) Order 1989

Codes of Practice issued under the Northern Ireland (Emergency Provisions) Act 1991

Annual Report of the Independent Commissioner for the Holding Centres

Report by Lord Woolf into prison disturbances in England and Wales in 1990

Annual Report of the Inspectorate of Prisons in England and Wales

Report of the Kincraig Committee on the parole system in Scotland (March 1989)

Appendix II

LIST OF ANNEXES*

Annex A - Downing Street Joint Declaration (December 1993)

Annex B - Chart showing distribution of the minority ethnic population as a proportion of the total population for local authorities in Great Britain (April 1991)

Annex C - Instruction to prison governors in England and Wales and guidance pack on caring for the suicidal in custody (February 1994)

Annex D - Guidance on how to make a complaint against a member of the armed forces in Northern Ireland

Annex E - First Annual report of the Independent Assessor of Military Complaints Procedures in Northern Ireland

Annex F - Codes of Practice issued under the Northern Ireland (Emergency Provisions) Act 1991

Annex G - First Annual Report of the Independent Commissioner for the Holding Centres

Annex H - White Paper: Custody, Care and Justice (Cm 1647)

Annex I - National Throughcare Framework Document (December 1993)

Annex J - Report of the Royal Commission on Criminal Justice (Cm 2263)

Annex K - Criminal Appeals and the Establishment of an independent Criminal Cases Review Authority - a discussion document (March 1994)

Annex L - White Paper: Firm and Fair - Improving the Delivery of Justice in Scotland (Cm 2600)

Annex M - Code of Practice on Access to Government Information

Annex N - White Paper: Adoption: The Future (Cm 2288)

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* Available for consultation with the Secretariat.

Probation Service National Standards for the Supervision of Offenders Before and After Release from Custody

National Throughcare Framework Document (December 1993)

National Objectives and Standards for Social Work Services in the Criminal Justice System

Report of the Reed Committee on services for mentally disordered offenders (1992)

Report of the Royal Commission on Criminal Justice (Cm 2263) (July 1993)

Criminal Appeals and the Establishment of a Criminal Cases Review Authority - a discussion document (March 1994)

Report of the War Crimes Inquiry (July 1989)

Annual Report of the Interception Commissioner

BBC's Royal Charter and Licence

Report of the Calcutt Committee on privacy and related matters (June 1990)

Report of the Parliamentary Select Committee on National Heritage on privacy and media intrusion (March 1993)

Questions of Procedure for Ministers

Code of Practice on Access to Government Information

Annual Report of the Children Act Advisory Committee

Report of the review of child-care law in Scotland (October 1990)

Report by the Scottish Law Commission on family law

Report of the Inquiry into the Removal of Children from Orkney (February 1991)

The Future of Adoption Law in Scotland - consultation document (June 1993)

Working Together under the Children Act 1989 - child protection guidance for England and Wales

Co-operating to Protect Children - child protection guidance for Northern Ireland

Annual statistical bulletin on children and young people on child protection registers

Statistics of Education: Further and Higher Education in Polytechnics and Colleges

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